

# LEGISLATIVE FISCAL REPORT 2007 BIENNIUM

## Volume 1 - Statewide Perspectives

2007 Biennium Budget Overview

- *An Executive Summary*

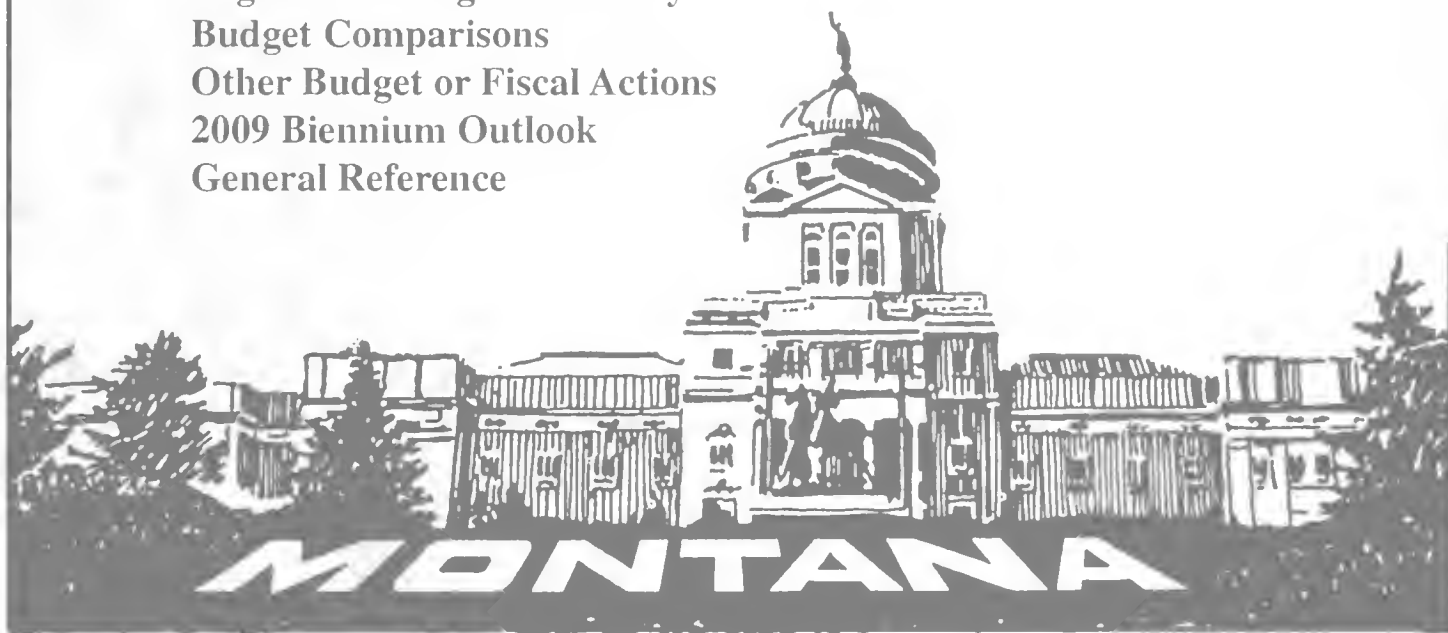
Legislative Budget Summary

Budget Comparisons

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# **LEGISLATIVE FISCAL REPORT**

## **2007 Biennium**

### **Volume 1 – Statewide Perspectives**

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Presented to the Fifty-ninth Legislature

Submitted by

The Legislative Fiscal Division

Helena, Montana

June, 2005

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# MONTANA LEGISLATIVE BRANCH

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Legislative Fiscal Analyst  
CLAYTON SCHENCK

June 2005

Members of the Fifty-ninth Legislature  
Members of the Legislative Finance Committee

In accordance with the provisions of Section 5-12-302, I submit the Legislative Fiscal Report for the 2007 Biennium. The report provides an overview and details of the 2007 Biennium budget for the State of Montana adopted by the 59th Legislature.

This four-volume report includes:

- o Volume 1: Statewide Perspectives – This volume provides a general summary of the 2007 Biennium state budget as well as significant fiscal policy addressed by the 2005 Legislature. It also contains a general reference section.
- o Volume 2: Revenue Estimates – This volume provides the revenue estimates and underlying economic assumptions adopted by the 59th Legislature.
- o Volumes 3 and 4: Agency Budgets – These volumes provide a detailed report of the appropriations for each agency and program contained in the general appropriations act (House Bill 2) and in other legislation.

These volumes are intended as a reference document and historical archive of legislative budget action for the use of legislators, the public, and state agencies.

Respectfully submitted,

  
Clayton Schenck  
Legislative Fiscal Analyst



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# HOW TO USE THIS REPORT

The *Legislative Fiscal Report, 2007 Biennium* is published in four volumes. The report was designed to report to the 2005 Legislature and all interested parties on the fiscal actions of the 2005 Legislature (including both legislation passed and stated legislative intent related to fiscal issues) and the fiscal status of state government through the 2007 biennium. It accomplishes its purpose by: 1) reporting on appropriations to and revenues of state government as determined by the legislature; and 2) discussing other fiscal issues pertaining to the state's fiscal status.

## VOLUME 1

*Volume 1*, which includes a legislative summary, provides a “broad brush” overview and summarizes significant fiscal actions that impact more than one agency or that did not fall under the jurisdiction of a single appropriation subcommittee.

This volume contains these major sections:

- 2007 Biennium Budget Overview – an executive summary
- Legislative Budget Summary
- Budget Comparisons
- Other Budget or Fiscal Actions
- 2009 Biennium Outlook
- General Reference

Explore these sections for a summary of legislative actions. The “2007 Biennium Budget Overview” section on pages 1 through 30 provides a high level summary of the material presented in Legislative Fiscal Report.

An index in the back of *Volume 1* is the most comprehensive for the purpose of searching for information in all four volumes.

## VOLUME 2

*Volume 2* includes a summary and overview of the state's major revenue sources, including the general fund. It delineates the economic assumptions used to derive revenue estimates as adopted by the legislature in House Joint Resolution 2 and in other revenue bills.

## VOLUMES 3 AND 4

*Volumes 3 and 4* offer detailed discussions of the appropriations established by the legislature for each agency and program in state government that receives an appropriation in HB 2. Agency presentations are grouped in sections corresponding to the appropriations subcommittee addressing the agency.

### VOLUME 3:

- House Bill 2 (the general appropriations act)
- Section A – General Government and Transportation
- Section B – Health and Human Services

### VOLUME 4:

- Section C – Natural Resources and Commerce
- Section D – Corrections and Public Safety
- Section E – Education
- Section F – Long-Range Planning

A specific agency can be located in any of three ways. The general index included in each volume provides an alphabetical listing of agencies and other topics, in conjunction with appropriate volume and page numbers. If the subcommittee addressing a given agency is known, the cover page of each section lists agencies, in order by appearance. Agency names are also visible on page headings within sections.

*Volumes 3 and 4* briefly describe the agencies from all three branches of state government, as well as each program within an agency. The basic structure used for the report is consistent across agencies. These volumes detail an agency's appropriations, both in tables and narrative. These volumes present detailed discussions of present law adjustments, new proposals, new legislation, and significant fiscal issues by agency as identified by fiscal staff.

Agency budgets are presented in three tiers as required by statute:

- **Base budget:** the level of funding authorized by the previous legislation;
- **Present law base:** the additional level of funding authorized under present law to maintain operations and services at the level established by the previous legislature; and
- **New proposals:** appropriations to provide new non-mandated services, to change program services, to eliminate existing services, or to change sources of funding.

By making this presentation in this tiered manner, the reader is able to see how the budget evolved from the base budget to the total amount appropriated, and the incremental increases or decreases that make up the total budget.

## PROPRIETARY RATE SETTING

The 1995 legislature, in HB 576, removed the requirement that proprietary – or internal service and enterprise – funds be appropriated by the legislature. Instead, as provided in Section 17-8-101, MCA, the legislature approves the rates charged for those particular services and products. It also requires the Office of Budget and Program Planning to submit a report as part of the Executive Budget. The proprietary rates that the legislature approved can be found in Section R of HB 2 (located at the beginning of *Volume 3*). There are also brief discussions of the rates in the relevant agency sections.

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# **2007 BIENNIUM BUDGET OVERVIEW**

## *An Executive Summary*

**Introduction**

**Legislative Budget Highlights**

**Budget Comparisons Summary**

**Highlights of Other Budget or Fiscal Actions**

**2009 Biennium Outlook**





**What is the state's fiscal outlook?**

**How did the Legislature balance the budget?**

**What were the major fiscal challenges, solutions, and issues?**



## **INTRODUCTION: FISCAL OUTLOOK, CHALLENGES & SOLUTIONS**

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### **PREFACE**

After facing a period of severe revenue shortfalls, Montana is seeing a dramatic turnaround in key revenue sources. Revenues from individual income and oil and gas taxes increased significantly in 2004 and early 2005. Rather than beginning the 2005 session with a large deficit, as was the case in 2003, the legislature started with a large projected fund balance as of the end of FY 2005. But the available balance is not necessarily what it appears to be, as a significant portion is from one-time, nonrecurring revenue. That means there is some risk in using these revenues for ongoing programs or services. In what is always a challenging fiscal environment, the 59<sup>th</sup> Legislature faced an opportunity to shape a budget that addressed some of the state's ongoing fiscal issues while at the same time taking on some very daunting emerging fiscal challenges, including the school funding lawsuit, significant caseload and inflationary increases in human services, prisoner population increases in corrections, a backlog in state infrastructure maintenance, and creation of a state office of the public defender.

In this first section, we provide an executive summary of the 2007 biennium budget as adopted by the 59<sup>th</sup> Legislature. It includes a brief overview of the state fiscal picture that faced the legislature, how the legislature balanced the budget, and a summary of the fiscal challenges and legislative solutions to those challenges. Next, it provides highlights of the budget adopted by the legislature. A budget comparisons summary follows that provides a point of reference for the 2007 biennium budget as compared to: 1) the executive budget request; 2) the 2005 biennium; and 3) by fund type. It further includes a summary of significant budget and fiscal actions that are global in nature or relate to more than one agency (for example, the state pay plan).

- In a nutshell, this section provides summary answers to the following questions:
- What is Montana's fiscal outlook?
- How did the legislature balance the budget?
- What were the major fiscal challenges, solutions, and issues?
- What are the major highlights of the 2007 biennium budget?
- How does the 2005 biennium budget compare to:
  - The Executive Budget Proposal?
  - Prior biennium expenditures?
  - Fund Sources?
- What other fiscal issues addressed by the 2005 legislature are important to consider?
- What might we expect for the 2009 biennium?

The items in this executive summary are presented in more detail in the remaining chapters of this volume.

## 2007 BIENNIUM FISCAL/ECONOMIC OUTLOOK

The 1990's were generally good years for Montana's economy. With a few exceptions, Montana experienced above average employment and wage levels that translated into strong tax revenue growth. This revenue growth was further enhanced by the significant increase in the equity markets and the resulting growth in capital gains income. During calendar 2002 and 2003, however, the state's financial picture blurred as the effects of a national economic recession, terrorism threats, and mid-east tensions played havoc on the US economy. Although Montana's economic base remained relatively stable during this period, state general fund revenues plummeted. This inconsistency was due to the precipitous fall in equity markets, low interest rates, and reduced corporate profits. All of these factors contributed to the 2002/2003 budget crisis while the state's economy continued to outperform the national economy.

Beginning in fiscal 2004, Montana's revenue picture continued to show signs of weakness. Income tax receipts were sluggish, interest rates continued at historic low levels, and corporation income tax refunds were significant. In early calendar 2004, however, the first signs of an improving revenue picture started to appear. By early June 2004, after most individual and corporation income tax returns were processed, it was quite apparent that both of these key revenue sources were going to exceed legislative expectations. At this same time, oil and natural gas tax revenues were mushrooming and investment earnings were improving.

The three income sources primarily responsible for Montana's revenue picture reversal are individual income, corporation income, and oil and natural gas taxes. Individual income tax has experienced increased growth resulting in large part from the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 (federal tax policy changes), an improvement in wage growth (especially in real wage growth per worker), and a higher capital gains base in calendar 2003. The corporation income tax has rebounded as Montana and multi-state corporations have recovered from the 2001 recession and the effects of "9/11". Additionally, the impact of the federal stimulus bonus depreciation provisions of calendar 2002 and 2003 will now create a decrease in the amount of depreciation expense corporations can claim in future years. This will result in increased tax liabilities. Finally, both oil and natural gas prices have increased dramatically in response to the war in Iraq and uncertainty about future supplies. As a result of the higher prices, new drilling activity for oil is up substantially. Production levels are once again increasing, reversing the production declines observed during the last ten years.

In summary, revenue growth is expected to be moderate through the 2007 biennium, and when coupled with a large beginning general fund balance, the 2005 Legislature faced a nearly unprecedented available balance as it prioritized state spending. Montana generally escaped the economic recession of the early 2000s, and state revenues are expected to recover in the 2005 and 2007 biennia from the significant declines in the 2003 biennium.

The cost of governmental services continue to increase even with a moderate rate of inflation and a slow growth rate in total population. School enrollments are declining, yet costs to support public schools continue to increase, especially in view of the recent court decision that schools are underfunded. Human services costs continue to escalate because of greater caseload demands, higher medical costs, and a higher state Medicaid match rate to due improved per capita incomes. Corrections population growth projections also compel significant expenditure growth.

While the legislature faced a brighter picture than two years ago, caution was in order. Income tax growth will be impacted during the transition to SB 407 (tax reform), and the full effects of the SB 407 tax cuts will not be fully felt until fiscal 2008, when the increase in the capital gains credit to 2 percent becomes effective for a full fiscal year. The bonus depreciation provisions will not add to corporation tax liabilities past the 2007 biennium. Furthermore, there is always uncertainty surrounding the price of oil and a quieting of the war in Iraq could send oil prices down sharply, slowing new drilling activity.

With this fiscal outlook in mind, the next section explains how the legislature prioritized and balanced the 2007 biennium budget.

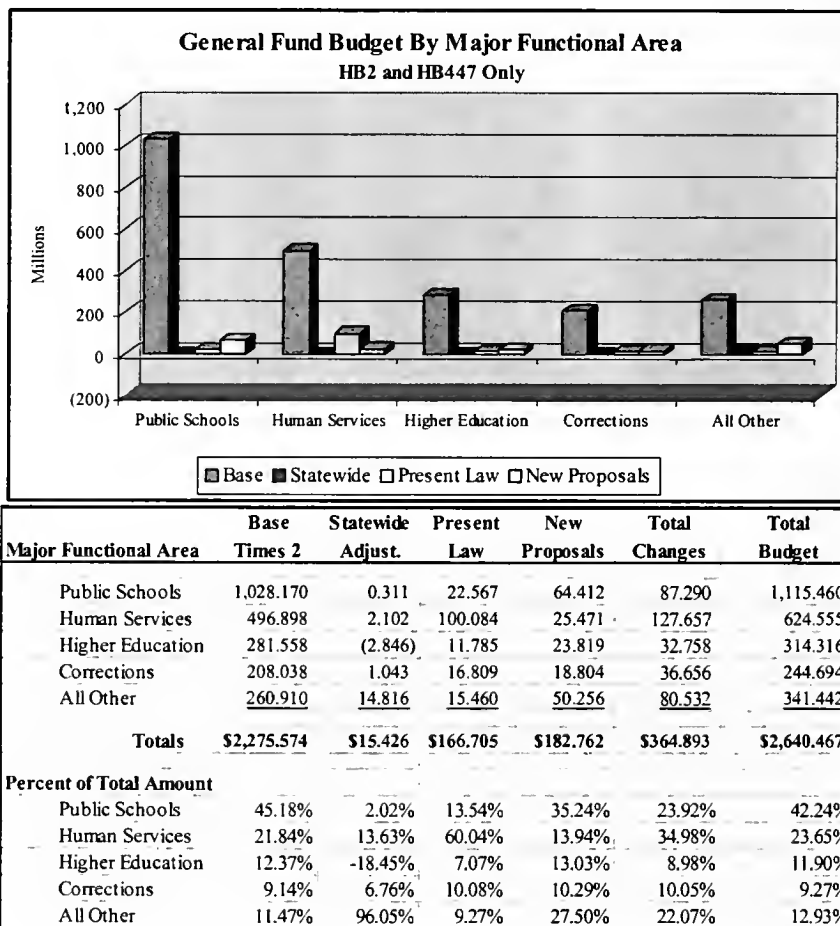
## 2007 BIENNIUM BUDGET SOLUTIONS

The legislature convened with an unusually high general fund available balance after funding “present law” services for the 2007 biennium. This available balance gave the legislature an opportunity to approach the budget in a far different way than was open to the previous legislature. The revenue shortfall faced by the previous legislature had left few options for building a balanced budget. The 2005 Legislature was able consider budget solutions that would restore many of the reductions required of the previous legislature and to address some budget issues that the state has not been able to address in some time.

The available balance in the general fund for the 2007 biennium was \$522.9 million before any legislative action (funding for base budget only). The projected ending fund balance after all legislative action for both fiscal 2005 and the 2007 biennium adjustments is \$76.0 million. The following figure shows in a summary fashion, how the budget was built.

Figure 1 shows the general fund budget for the 2007 biennium by major functional area (public schools, human services, higher education, corrections, all other). The amounts shown in Figure 1 are the appropriations contained in HB2 (general appropriations act) and HB447 (employee pay plan) categorized by base, statewide adjustments, present law adjustments, new proposals, and total budget.

Figure 1



As indicated in the figure, public schools received the largest allocation of available funds at \$1.115 billion (42.2 percent) of the authorizations contained in HB2 and HB447. Human services was allocated \$624.6 million (23.7 percent) while higher education received \$314.3 million (11.9 percent) with corrections receiving \$244.7 million (9.3 percent). All “other” agencies of state government were allocated \$341.4 million (12.9 percent). These distributions might indicate the overall prioritization process of the legislature.

The figure also shows the total amount of change adopted as statewide adjustments, present law adjustments, and new proposals (total change). From the perspective of the change amount, human services was top priority for funding since that area received 35.0 percent of the total change amount or \$127.7 million. Public schools received 23.9 percent of the change amount or \$87.3 million.

In summary, the 59<sup>th</sup> Legislature adopted a balanced budget for the 2007 biennium with a projected ending fund balance of \$76.0 million. The budget solution was crafted with a significant number of budget changes. The largest new proposal was for the employee pay plan of \$37.6 million general fund, which was passed early in the session (see page 105 for details). In some instances, one-time moneys were earmarked for one-time expenditures such as the Crow Tribe settlement, the highway patrol lawsuit settlement, and to address deferred maintenance of state facilities. In other instances, the legislature was able to restore funding for human service programs that saw service reductions in the previous biennium. Public education received a significant boost, but addressing the budget relative to school funding lawsuit was deferred to further study with a special session tentatively planned for late 2005. These actions and many other are described in later sections of this report.

There were a significant number of tax policy revenue bills enacted but these impacts combined with revenue estimate adjustments had an insignificant impact on the 2007 biennium revenues.

The budget as passed is structurally balanced, meaning that ongoing revenues are sufficient to fund ongoing appropriations included in the budget.

## 59<sup>TH</sup> LEGISLATURE: FISCAL CHALLENGES AND SOLUTIONS

The *Legislative Budget Analysis 2007 Biennium*, released in January 2005, identified a number of major fiscal challenges that the 59<sup>th</sup> Legislature would face when it convened. Although a sizable available balance was anticipated (and is still projected) for the end of the 2005 biennium, there were some very significant issues to be addressed, including public school funding with a potential huge price tag, rising health care costs, the potential for the loss of federal funds, and questions of the sustainability of general fund revenues.

The preceding pages describe the fiscal and economic outlook for Montana and provide a broad-brush summary of budget solutions. Those pages are a prelude to discussions of the actions of the legislature during the 86-day regular session. For further perspective, the following summarizes the key challenges and uncertainties that the legislature had to consider in formulating the 2007 biennium spending plan and addressing related fiscal issues. Below each is a summary of legislative actions and potential remaining issues and concerns.

### Fiscal Challenge

**Funding for schools** was arguably the number one fiscal challenge in view of a district court decision in April of 2004 (upheld by the Montana Supreme Court in November 2004) finding that state funding for K-12 education is not adequate and that the current funding methodology is unconstitutional. The state is directed by the court to find a solution by October 2005. The magnitude of the K-12 education budget, the complexities of determining a solution, and the limited time frame for finding a solution will make this issue difficult to resolve.

**Legislative Action:** The 59th legislature faced a daunting challenge. In response to a December 2004 Supreme Court preliminary decision, the Legislature was faced with the requirement to: 1) define a basic system of quality schools, 2) "cost out" the resources required to deliver a basic system of quality education, 3) develop a funding formula to distribute budget authority among school districts, and 4) develop the revenue stream to pay for the funding formula. The Supreme Court issued their final order in March 2005 affirming the District Court's decision (Sherlock) that the legislature provide a remedy to the school-funding problem by October 1, 2005.

The 59th Legislature was successful in achieving the first objective in the regular session, but not the last three. In passing SB 152, the legislature created a definition of a basic quality school system that includes recognition of the resources required and the population served. An interim committee created by SB 525 will conduct the cost study, develop the funding formula and recommend revenue changes in preparation for a special session on school funding tentatively scheduled for December 2005.

**Issue:** The short time frame for the cost study and formula development will mean a limited scope and that the process will not be able to take account of all relevant factors, and therefore will be an ongoing process beyond the special session.



**Fiscal  
Challenge**

**Health care cost inflation and caseload increases** continue to be major contributors to greater than average growth in health care services budgets. With medical cost growth well ahead of normal inflation and prescription drug increases in double digits, there is no relief in sight. This trend follows recent years of budget reduction caused by revenue shortfalls. Add to that the growing caseloads needing services, fueled to some degree by an aging population, growing demands for increases in funding, and reductions in the federal Medicaid rate. Underestimating costs could result in a budget-breaking supplemental request or further reductions in health care services.

**Legislative Action:** The legislature considered several issues related to health care cost inflation, especially as it contributes to the number of uninsured or underinsured Montanans. The legislature also considered public health programs that fund health services for low-income persons in Montana. Also, the legislature, in implementing voter Initiative I-149, passed two bills to create state funded programs to assist: 1) low-income Montanans in purchasing prescription drugs, and 2) small businesses in providing health insurance coverage for their employees. Additionally, the legislature approved funding to expand enrollment in the Children's Health Insurance Program (CHIP) from 10,900 to 13,900 children annually. The legislature also used I-149 tobacco tax revenue to fund Medicaid community service and children's eligibility expansions (HB 552). The use of I-149 and components of the new programs are discussed more thoroughly in Volume 1 on page 124 and in Volume 3, page B-6.

**Issue:** As always, the issue related to publicly funded health care programs is the funding necessary to support the ongoing program cost. In the case of the prescription drug and premium assistance programs, and CHIP expansion enacted to comply with I-149, the programs are funded from a source of revenue that is expected to decline if state efforts to control and prevent tobacco use are successful.

**Fiscal  
Challenge**

**Correctional offender population** continues to grow. From FY 1997 through FY 2004, the number of offenders in both secure custody and community supervision increased from 7,453 to 10,353, or 38.9 percent. The average daily population for FY 2004 is estimated to have a 4.5 percent increase over FY 2003. Controlling expenditures in this area of the budget can go way beyond simply funding incarceration or supervision programs. It requires legislators to look at sentencing criteria, alternative correction programs, ways to rehabilitate offenders more quickly, and ways to keep people out of the criminal justice system.

**Legislative Action:** The legislature was not in favor of expanding the private prison in Shelby by 500 beds during the 2007 biennium as originally recommended in the executive budget. Instead, the legislature approved funding for more prerelease beds and a revocation center (for temporary placement of persons who have violated parole or probation) at Montana State Prison. It preferred that the majority of funding approved for contract beds be used to finance a facility that would treat special needs prisoners. Special needs prisoners are those with mental or physical health issues (including elderly prisoners), drug problems, and sex offense convictions.

**Issue:** All of the secure facilities, with the exception of the private prison in Shelby, will be well above their rated capacities or at or above their operational capacities during some point in the 2007 biennium.

**Fiscal  
Challenge**

**Higher education** has been funded to a greater and greater degree in recent biennia with increased tuition charges to students, as general fund becomes a smaller share of total funding. The legislature will need to reconcile the difference between what the total state funded share of higher education should be, and what the state can afford.

**Legislative Action:** In an effort to keep student tuition rates lower while working within the constraints of the current state funding formulas, the legislature took two actions that will have an impact on funding for the university system and an impact on tuition rates. These two budget actions, motivated in part by a concern that enrollment increases for the 2007 biennium are projected to be flat (which would keep present law budget adjustment increases low) include:

The legislature modified the present law adjustment formula for the university educational units by funding these adjustments in the 2007 biennium at approximately 80 percent, as opposed to the historical level, which would have been 43 percent. The 80 percent level reflects the approximate ratio of Montana resident students to non-resident student enrollment at the university units. This formula adjustment increased present law funding by approximately \$5.3 million over the 2007 biennium.

- The legislature also modified the marginal cost per student formula by carrying over the calculation from the 2005 biennium rather than updating this calculation using FY 2004 base year data, thus negating the mathematical anomaly in the formula that drives the state funding level downward. By carrying forward the 2005 biennium calculation, the legislature increased the present law adjustment funding to support enrollment increases by \$108,000 over the 2007 biennium.
- In spite of these legislative actions to remediate tuition rate increases, the Board of Regents approved tuition rates in May 2005 that will increase tuition an average of 8.6 percent per year in the 2007 biennium across the university units. These tuition increases range from as high as 12 percent per year at MSU-Bozeman and Montana Tech, to as low as 3 percent per year at the Billings College of Technology and 3.1 percent per year the Great Falls College of Technology.

**Issue:** Part of the reason that state funding to support the cost of education has declined for the university system is that the funding formulas that the legislature uses to set budgets have a mathematical anomaly that drives the state percentage downward each biennium simply due to the mathematics, separate from public policy matters. Since the adoption of the lump-sum funding method, whereby the legislature appropriates state funds to the university units in a single block amount so that the Board of Regents may direct the allocation in accordance to their constitutional governance authority, the funding formulas have become distanced from substantive public policy considerations by the legislature. Two legislative options to address this issue include: 1) consideration of budgeting for the university system based upon accountability measures that would serve to establish the outcomes and product the legislature wishes to fund at the university units, which would then engage the legislature in more substantive public policy setting relative to the university system budget; and 2) consideration of alternate funding formulas and methodologies that would at least, in part, be based firmly upon matters of policy, such as what specific percentage share of the cost of education the legislature believes it owes to Montana resident students, rather than being based upon mathematics.

**Fiscal  
Challenge**

**State employee pay and benefits** were expected to be a hot topic for the 2005 session. State employees received no salary increase in FY 2004 and a 25-cent per hour increase in FY 2005, which was delayed to take effect mid-year. However, the state contribution to employee health insurance benefits attempted to keep pace with the growth in those costs, costs that continue to climb. With the revenue picture improved, state employee union representatives sought some redress of employee compensation issues.

**Legislative Action:** The legislature addressed employee pay and benefits early in the session with the passage of HB 447. The legislation provides a 3.5 percent (or \$1,005, whichever is greater) increase in salary for most employees beginning on October 1, 2005, with a further 4.0 percent (or \$1,118, whichever is greater) increase beginning October 1, 2006. In addition, employer contributions toward health insurance costs will increase on January 1 of each year by \$46 per month in 2006 and \$51 per month in 2007. The estimated cost of this action in the 2007 biennium is \$37.6 million general fund and \$37.2 million other funds (includes a contingency fund).

**Issue:** As is usually the case, the delayed effective dates for the components of the pay plan, salary increases on October 1 of each year and health insurance increases on January 1 of each year, will result in sizable statewide present law adjustments for the next budget as each increase will need to be annualized to reflect full funding in the biennia following the 2007 biennium. The annualized cost in the 2009 biennium is estimated at about \$60.6 million general fund and \$58.9 million other funds.

**Fiscal  
Challenge**

**Public employee retirement funds** have suffered from lower interest rates and equity market losses. Reduced investment earnings have resulted in actuarial estimates of unfunded liabilities that exceed acceptable levels.

**Legislative Action:** Two bills (HB 148 and HB 181) that were intended to partially address the unfunded liabilities of the Public Employee Retirement System and the Teachers Retirement System were considered but not passed. Instead, the legislature passed HJR 42 which requested an interim legislative study on how public employee retirement funds are invested and how investment performance, retirement plan benefits, and legislative policy decisions interact to affect the actuarial soundness of the public employees retirement plans and public employers' funding obligation.

**Issue:** Since the legislature took no action to change the employer contribution rates, the unfunded liability remains and is conditional to a degree on the performance of the investments held by the retirement systems.

**Fiscal  
Challenge**

**Management of capital assets** is an important function of state government. A key component is the maintenance of state facilities and other assets. The deferral of such maintenance has been a long-standing issue, made worse by the budget shortfalls of recent years. Delaying maintenance activities can result in higher future costs as facilities deteriorate beyond the need for ordinary repairs and replacements.

**Legislative Action:** The highest priorities in the cash portion of long-range building proposals are for repair and maintenance activities. The legislature approved a one-time transfer of \$30.1 million from the general fund to the long-range building account in order to reduce the growing statewide backlog of

safety, major repairs, and deferred maintenance projects. This is in addition to a projected cash balance of \$5.5 million in the long-range building fund, for a total amount of \$35.6 million.

**Issue:** Although the \$30.1 million transfer is a significant chunk of money applied to the deferred maintenance problem, a sizable amount of maintenance is still needed around the state. The estimated value of total maintenance projects that have not been funded is estimated to be over \$150 million. The legislature approved \$8,000 for a study of the deferred maintenance program.

### Fiscal Challenge

**Public defender services** were the topic of a subcommittee of the legislative Law and Justice Interim Committee during the 2003-2004 interim. Partially in response to a pending lawsuit (on hold until May 2005), the subcommittee drafted legislation to create a statewide public defender system to address issues raised by the American Civil Liberties Union (ACLU) in its lawsuit. The ACLU alleges that public defender services are not provided throughout the state in an equitable manner and that it is a conflict of interest when a judge appoints a public defender in a case that will be heard by that judge.

**Legislative Action:** The legislature approved SB 146 that established the Office of State Public Defender and provided general fund of \$14.7 million and 90.25 FTE for the biennium. About \$8.4 million of the costs of this office and 4.50 FTE will be transferred from other state agencies, the majority of which will come from the Judiciary. Under SB 146, FY 2006 would be a year of transition. The funding for a biennium without a transition year would be approximately \$28.3 million. Please refer to the write-up on the Office of State Public Defender on page 129 of this volume for more detail.

**Issue:** The ACLU has sent a letter to the district judge that has jurisdiction over this issue asking that the trial date be cancelled indefinitely. However, the ACLU is still reviewing the issue on the adequacy of funding for this effort.

### Fiscal Challenge

**Pending litigation and subsequent court rulings** can impact state finances. Currently, there is one legal action pending that seeks changes and increased funding for services for the developmentally disabled: the Montana Association for Independent Disability Services, Inc. (MAIDS) lawsuit. Another lawsuit pending relates to compensation issues for highway patrol officers and could result in an award of back pay. In addition, during FY 2004, two decisions were rendered that will have potential fiscal impact in the upcoming biennium: 1) the Montana Advocacy Program (MAP) Travis D. class action lawsuit; and 2) the lawsuit which challenged the adequacy of state funding for schools (discussed on page 111 under "Public School Funding").

**Legislative Action:** The legislature considered information and funding requests related to the changes in the Developmental Disabilities System, including the impact of the settlement of the Travis D litigation and the pending MAIDS litigation. The legislature provided funding to complete movement of 45 individuals from the Montana Developmental Center to community settings and for training, crisis services, start up costs for new services, movement of 15 individuals from the waiting list into services, and an increase in the direct care worker wage benchmark in the published rate schedule. The MAIDS litigation is not yet resolved so the impacts of that litigation are not yet known. With regard to the highway patrol officers' lawsuit, the legislature approved a supplemental appropriation of \$8.5 million to pay for the settlement of this lawsuit.

**Issue:** The potential liability in the other pending litigation is unknown, but could be substantial. The legislature needs to be cognizant of the MAIDS lawsuit and or other outstanding items for the future.

**Fiscal  
Challenge**

**Supplemental emergency appropriations** for the next biennium are not budgeted by the legislature and not accounted for in the ending fund balance. The state continues to experience supplemental appropriations each biennium, particularly for fire suppression, although for FY 2005, no fire costs supplemental is expected. Fire costs for FY 2005 were funded by a one-time federal grant. For any future biennium, the legislature needs to keep in mind that supplemental appropriation requests are common, with general fund supplemental appropriations averaging \$29 million per biennium over the past 10 biennia.

**Legislative Action:** The legislature approved supplemental appropriations for FY 2005 totaling \$55.3 million. For details, see page 131.

**Issue:** Neither the executive nor the legislature includes projections for supplemental appropriations in the 2007 biennium. Typically, the potential for supplemental appropriations is considered a component of the fund balance reserve. This speaks to the need for an adequate reserve, which is discussed later.

**Fiscal  
Challenge**

**State assumption of district courts** has been a difficult issue for the Judiciary since its implementation through SB 176 in the 2001 session. Although questions of who pays for what costs have been answered, there are still concerns that the program is under-funded. A sizable supplemental of \$5.8 million was requested for FY 2005 and this is also reflected in the Judiciary's request for the next biennium.

**Legislative Action:** The legislature approved a supplemental appropriation of \$5.8 million to fund variable cost overruns in the district court assumption program. The legislature also approved additional funding at the FY 2004 base level for the 2007 biennium for variable costs related to this activity, which are mostly comprised of public defender activities.

**Issue:** Since the implementation of SB 176 in 2001, the Judicial Branch has indicated that its budget to pay for the district court assumption was not adequately funded. The budget for the district court assumption is split into fixed and variable costs. The fixed costs primarily are comprised of employee payroll costs while variable costs are primarily for public defender services. One difficulty has been that the Judiciary does not budget and account for variable costs in a way that clearly reports those costs or offers an opportunity to control those costs. Before the variable costs can be fully addressed in the budget, there needs to be better accountability for those costs. The legislature passed SB 146, which approved the transfer of most of the variable costs in the district court assumption program to the Office of State Public Defender, effective July 1, 2006.

**Fiscal  
Challenge**

**Potential loss of federal funds** as a source of funding for many state and federal programs is a concern because of the large federal deficit and the administration's goal of cutting the deficit in half by 2008. The loss of federal funds translates to either reductions in services to citizens or increased state costs to offset the loss, loss of jobs in the state, and loss of "imported" money into the Montana economy.

**Legislative Action:** The legislative budget includes \$3.3 billion in federal funds for the 2007 biennium, a \$369.6 million, 12.8 percent increase over the 2005 biennium. While there was significant discussion of concerns over this issue, the only specific action taken by the 59<sup>th</sup> Legislature was to pass a resolution (HJR 26) to study financial reliance on federal funds and to provide recommendations for dealing with this liability.

**Issue:** The Montana budget has an increasing reliance on federal funds, as federal funds comprise 46.1 percent of the total proposed HB 2 budget. A significant federal cutback could have a devastating impact on government services in Montana and/or the state budget.

**Fiscal  
Challenge**

**Long-term stability of the general fund** becomes an issue when changing demographics become a big player in the demand for government services or are an influencing factor in the generation of state revenue. Emerging examples of potential instability are: 1) the aging population of Montana as well as other states; 2) dependence on revenue from the cigarette tax that is partly intended to discourage the use of tobacco products that generate the tax revenue; 3) the education funding lawsuit liability; and 4) the federal funds reliance issue discussed above.

**Legislative Action:** The legislature took some steps to address this issue. To the extent that the aging population issue is tied, either directly or indirectly, to caseload increases for services provided to seniors, some increases were approved, such as increases in the number of persons that are served by the community-based Medicaid waiver program. However, the emerging issues related to the aging population have not really been embraced by the legislature from a budgeting standpoint. Regarding cigarette tax revenues, the legislature addressed short-term concerns by delaying the implementation of programs funded by the tax, but have not addressed the long-term concerns of a declining revenue source. For the education lawsuit liability, the legislature did define a basic system of quality education but did not complete the funding component. A study committee is working on this aspect with a special session expected in late 2005. On the federal funds reliance issue, the legislature called for a study during the 2005-2006 interim.

**Issue:** The legislature needs to be cognizant of the long-term outlook for the general fund if a future budget crisis is to be avoided. The legislature may wish, at some point in time, to consider an interim study of the long-term stability of the general fund.

**Fiscal  
Challenge**

**Economic development** has been a high priority for the Governor's Office. Governor-elect Schweitzer campaigned strongly on economic development initiatives. What investment will be necessary to continue current efforts and/or fund new initiatives?

**Legislative Action:** The 2005 Legislature passed 12 bills that will have an impact upon economic and community development. Eight bills provide appropriations for economic and community development related activities. Two bills were enacted to stimulate business retention, expansion, or research through tax incentives. Two additional bills provide for other types of financing, or regulatory changes associated with removing or reducing impediments to economic and community development. The total amount appropriated is \$36.1 million in general fund and state special revenue.

**Issue:** As is true for many economic development efforts, there needs to be accountability for the investment that is committed to the project. Measurable goals and objectives, and related accountability measures, are critical in determining the effectiveness of these efforts.

**Fiscal  
Challenge**

**Controlled budget growth (structural balance)** will continue to be a concern, regardless of the sizable projected fund balance expected for the end of the 2005 biennium. A large portion of the available general fund revenues is from a one-time source. Temptations to use “one-time” revenue for “ongoing” programs and services will persist.

**Legislative Action:** The structural imbalance for the 2007 biennium is expected to be a negative \$5.1 million, although a structural balance is achieved by the end of FY 2007 (\$2.3 million positive).

**Issue:** The projected structural balance for FY 2007 is positive at \$2.3 million. Although the state could be considered structurally balanced at that time, there are fiscal “potholes” that could be troublesome as the state moves toward the next biennium. For example, the financial resolution to the public school lawsuit, the increased costs of the phased-in employee pay proposal, rising corrections populations, and continued double digit medical inflation coupled with the potential reduction in federal Medicaid funding could easily consume average revenue growth for the 2009 biennium.

**Fiscal  
Challenge**

**Adequacy of the ending fund balance** reserve will need to be monitored by the legislature as the session progresses. What will it take to ensure that Montana keeps an adequate “safety net” in place?

**Legislative Action:** The legislature ended the session with a general fund balance of \$76.0 million, a 2.5 percent reserve. This is the highest session ending general fund balance to date. However, national experts such as the National Conference of State Legislatures (NCSL) recommend a 3 to 5 percent reserve, and the 50 states average 5.3 percent reserve (2004 data from NCSL).

**Issue:** Although the fund balance is reasonable as a “safety net”, unexpected revenue shortfalls or unanticipated expenditures can quickly consume a reserve. Taking into account that supplemental appropriations and wildfire suppression costs average \$33.4 million per biennium (1987 to 2005), a balance of \$78 million leaves a fragile safety net. Montana is one of only three states without a rainy day fund and may want to consider setting up and placing seed money in a “rainy day fund”. Eight such bills have been debated in the past two sessions but none have been approved.

**Fiscal  
Challenge**

**Economic uncertainties** can undermine revenue-forecasting efforts, and contribute to an increased demand for government services in areas such as human services and corrections. As in any legislative session, there are many unknowns surrounding revenue forecasts. Oil and gas prices appear to be declining, interest rates are slowly increasing, and there is more talk at the federal level of income tax reform. Assumptions used in the revenue forecasting process are based upon the best information available, but what might happen to change those assumptions?

**Legislative Actions:** The legislature did not approve any major tax policy changes, nor did it address the strain of higher oil prices on the economy or the potential of federal fund reductions.



**Issue:** The current national economic picture is volatile at best, and with the inherent increase in government service demands and eligibility, are revenue estimates conservative enough, and can budgets be contained without cost over-runs?

**Fiscal Challenge** **General fund spending without HB 2 appropriations** occurs in general fund non-budget transfers and through statutory appropriations. Authority for such spending is authorized in statute, but doesn't receive the usual scrutiny that HB 2 appropriations require. The challenge in this case is for the legislature to minimize the occurrence of spending that does not require regular scrutiny by the legislature.

**Legislative Actions:** The 2005 Legislature enacted 7 laws that increase general fund spending from statutory appropriations by \$1 million in the 2007 biennium. In addition, 13 new general fund transfers were enacted, totaling \$13 million over the 2007 biennium.

**Issue:** The legislature has established numerous statutory appropriations and transfers in statute, expenditures that do not receive the same scrutiny or prioritization as HB 2 appropriations. Statutory appropriations for the 2007 biennium are estimated to be \$269 million general fund and transfers are estimated to be over \$54 million.





## LEGISLATIVE BUDGET HIGHLIGHTS

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This section provides an executive summary of the legislative budget, including a discussion of the general fund ending balance projection, a summary of revenue estimates and an appropriations summary.

### GENERAL FUND

The general fund supports a majority of the general operations of the state, and represents about 37.5 percent of all state expenditures in the budgeted fund types in HB2 (general appropriations act) and HB447 (pay plan). The legislature also passed numerous "cat and dog" bills appropriating general fund.

The revised general fund balance at the end of the current 2005 biennium is projected to be \$162.4 million. This projected balance is \$116.2 million above the balance anticipated by the 58<sup>th</sup> Legislature, and is due primarily to general fund revenues coming in much stronger than projected. The primary income sources responsible for the revenue picture improvement are individual income, corporate income, and oil and natural gas production taxes. The reasons for the improvements are summarized on page 40 and in more detail in Volume 2, "Revenue Estimates". With such a high beginning balance, and after applying the present law revenue estimates and present law funding of programs for the 2007 biennium, the 2005 Legislature had a \$274 million general fund balance to work with in crafting the 2007 biennium total budget. The legislature increased general fund appropriations by \$172 million with the most significant increases for human services, public education, corrections, and higher education, as well as for the state employee pay plan (\$36.0 million). "Cat and dog" bill appropriations added \$3.3 million. There was no significant tax policy/revenue legislation in the 2005 session impacting general fund.

Total general fund revenues are estimated to be \$2.887 billion for the 2007 biennium, a 3.9 percent increase (\$107.5 million) over the 2005 biennium. Included in this increase are the impacts of SB407 (individual income tax reduction adopted by the 2003 Legislature) and all other tax policy/revenue legislation enacted by the 59<sup>th</sup> Legislature. Total disbursements from the account for the 2007 biennium are estimated to be \$2.973 billion, which is an increase of \$320.8 million (12.1 percent) over the 2005 biennium. The significant disparity between increased revenues (\$107.5 million) and increased disbursements (\$320.8 million) is primarily explained by the drawdown of a large beginning fund balance discussed above. The projected general fund balance at the end of the 2007 biennium is \$76.0 million, including all initiatives adopted by the legislature. Please note that this projected balance does not include additional revenue currently being received in excess of the revenue estimates used by the 59<sup>th</sup> Legislature.

## REVENUE ESTIMATES

The legislature adopted 2007 biennium general fund revenue estimates in HJR 2 of \$2.905 billion, and other legislation enacted resulted in \$18.4 million in revenue decreases in the 2007 biennium, for a consolidated revenue projection of \$2.886 billion for the biennium. Income taxes account for 48.4 percent of the general fund revenues. Property taxes contribute 12.3 percent of the budget, consumption taxes about 8.6 percent, and vehicle taxes 5.6 percent (see page 49). Total general fund revenues for the 2005 biennium are projected to increase 3.9 percent over the 2005 biennium projections.

## TAX POLICY AND INITIATIVES

The 2003 legislature approved numerous bills with a general fund revenue impact, as shown in figure 7 on page 51. In total, they decreased general fund revenues by \$33 million, with SB 212 (a shift in allocation of U.S. mineral royalties between funds) accounting for 84 percent of the decreased revenue. There were no major changes in tax policy in the 2005 session.

A detailed discussion of revenues in the 2007 biennium begins on page 45 of this volume.

## APPROPRIATIONS HIGHLIGHTS

The legislature provided total general fund of \$2.6 billion and total funds of \$7.0 billion for the operations of state government in the 2007 biennium. Figure 1 shows the allocation of general fund by program area of government. Education, corrections, and human services consume 87.1 percent of this total, compared to 88.7 percent in the 2005 biennium.

Figure 1

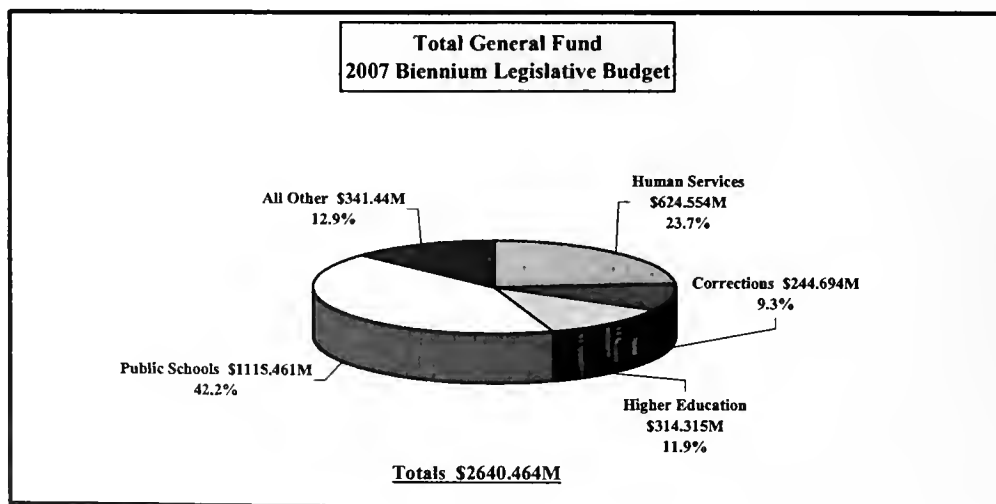
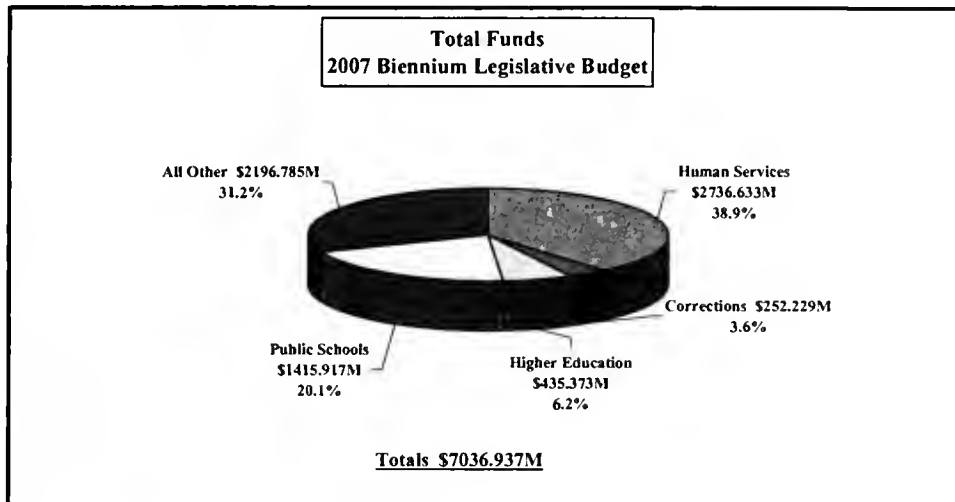


Figure 2 shows the allocation by program area of total funds. "All Other" includes the Department of Transportation. Because of the significant contribution of federal funds and use of non-general fund in transportation and human services, those two functions consume almost 55 percent of the total.

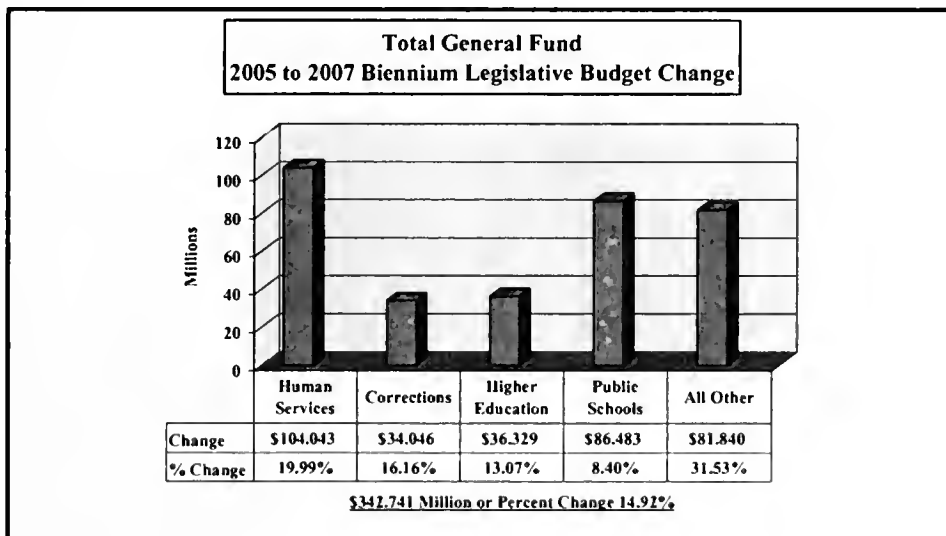
Figure 2



## INCREASES OVER THE 2005 BIENNIUM

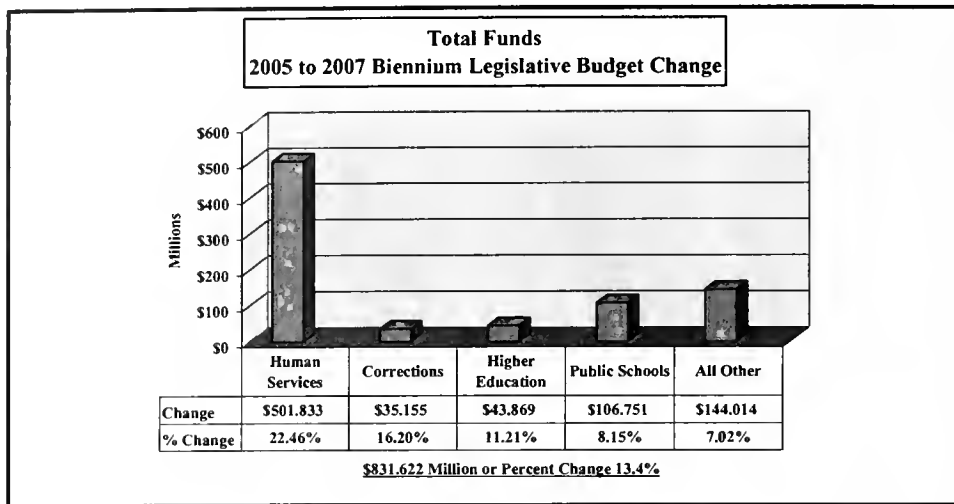
The 2007 biennium total in HB 2 and HB 447 is an increase in general fund of \$342.7 million or almost 15 percent, and in total funds of \$832.6 million or 13 percent over the 2005 biennium level. General fund increases are spread across state government, with human services and public schools receiving the largest share, as shown in Figure 3.

Figure 3



Total funds are dominated by increases to the Department of Public Health and Human Services, as shown in Figure 4.

Figure 4



## LEGISLATIVE PRIORITIES

As reflected in its approved budget, the legislature had a number of priorities for state government in the 2007 biennium. The following narrative discusses some of the major priorities by program area.

### Human services (increases of \$104.0 million general fund and \$501.8 million total funds)

- Maintain existing services to all currently eligible persons, including replacement of federal funds due to a reduction in the federal Medicaid participation rate
- Increase rates paid to human services providers and direct care workers
- Use existing and expanded state funding to maximize the receipt of federal funds to expand services, increase payments to providers, and expand Medicaid eligibility for children
- Increase the availability of prescription drugs and health insurance to a wider group of Montanans
- Expand children's health insurance
- Expand mental health, developmental disability, senior, and physical disability community services
- Maintain payments to TANF recipients

### K-12 Education (increases of \$86.5 million general fund and \$106.8 million total funds)

- Increase payments to schools and protect school districts with falling enrollments from sudden drops in funding
- Create and implement Indian Education for All
- Utilize all anticipated federal funds

### Higher Education (increases of \$36.3 million general fund and \$43.9 million total funds)

- Enhance access through:
  - Expansion of scholarships and other financial assistance
  - Provision of greater general fund support for operating costs to reduce tuition increases
  - Provision of additional support to Tribal colleges for non-beneficiary students
- Enhance funding for community and Tribal colleges
- Provide staffing and equipment to enhance other programs and services

### Corrections (increases of \$34.0 million general fund and \$35.2 million total funds)

- Provide services and/or facilities for all anticipated population increases
- Focus more on treatment and placement options by minimizing the increase in private secure care beds and expanding facilities for revocations and special needs inmates
- Increase payments to current providers

**Other Government** (increases of \$81.8 million general fund and \$144.0 million total funds)

- Utilize all anticipated federal funds, including highway construction funds
- Provide consistent and quality legal services to the indigent
- Expand or implement programs for economic development
- Complete or begin several computer systems
- Accelerate the water adjudication process

## STATE EMPLOYEES

FTE increase by 412.07, or 3.6 percent, in FY 2007 compared to the FY 2005 level funded by the 2003 Legislature.

- Environmental programs are 25 percent of the increase and are for a number of purposes, including replacement of contract IT with state employees, acceleration of the water adjudication process, completion of total maximum daily load duties, and provision of additional initial fire attack capabilities
- Staffing for a new Office of the Public Defender is over 20 percent of the increase and consists of new employees and those transferred from local governments in addition to current state employees
- Corrections staff is almost 18 percent of the total increase and is for additional probation and parole officers and to staff a new revocation center
- Transportation staff is over 15 percent of the total increase and is added for the new construction plan and to integrate financial systems

A detailed discussion of appropriations in the 2007 biennium budget begins on page 69 of this volume.



**How does the 2007 biennium budget compare to:**

- **The executive budget proposal?**
- **Prior biennium expenditures?**
- **Fund sources?**



## **BUDGET COMPARISONS SUMMARY**

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### **INTRODUCTION**

The following highlights the budget comparisons that are presented in detail beginning on page 89. The three comparisons are: 1) budget levels of the legislative 2007 biennium budget to the Governor's budget request; 2) comparison to the prior biennium expenditures', and 3) a "by fund" biennial comparison.

### **COMPARISON TO THE EXECUTIVE BUDGET**

The 2007 legislature passed a budget in HB 2 and HB 13 that is net \$63.5 million general fund higher and \$64.7 million total funds higher than the level requested by Governor Schweitzer. This difference is the net of a large number of partially offsetting increases and decreases. The major differences are:

- o The pay plan, proposed by Governor Schweitzer but not incorporated into agency budgets at the time of publication, represent \$36.0 million general fund and \$70.3 total funds of the difference. (If the pay plan is excluded, the total difference in general fund is less than 1.1 percent.)
- o For K-12 education, \$19.5 million general fund over the executive request was added for three year averaging of enrollments for purposes of determining ANB and for an increase in an entitlement per both elementary and high school students.
- o Department of Public Health and Human Services appropriations exceed the executive request by \$1.6 million general fund and \$78.6 million total funds. Generally, the changes related to legislative initiatives, addition of matching funds for I-149 initiatives, continuation and in some instances increases in bed utilization fees, increases in Medicaid caseload estimates during the session, and the denial of the executive request of additional energy assistance funding.
- o For the Department of Corrections, the legislature approved most of the executive decision packages and added \$10.7 million in additional funding to cover projected increases in the adult average daily populations (ADP) of about 4.5 percent in each fiscal year of the biennium. In addition and at the request of the executive, the legislature did not fund an offender tracking system.
- o In the Department of Transportation, the difference between the legislative budget and the budget proposed by the executive is primarily due to two factors: 1) the construction plan was updated by the executive to reflect anticipated activities during the biennium, and 2) the legislature chose to provide appropriation authority for highway 93 bonding in HB 5, rather than HB 2, due to the long-term bonding nature of the project.

See page 89 in this volume for additional detail regarding the comparison of the legislative 2007 biennium budget to the Executive Budget.

## BIENNIAL BUDGET COMPARISONS

The legislature adopted a 2007 biennium spending plan that is a \$344.1 million (13.4 percent) increase in general fund, and a \$824.3 million (12 percent) increase in total funds, when looking at all comparable appropriations. When looking at just HB 2 and HB 13, the general fund increase is \$342.7 million or 14.9 percent, and the total funds increase is \$831.6 million or 13.4 percent. The most significant increases in general fund appropriations occur for programs in the Department of Public Health and Human Services (\$104 million), Office of Public Instruction (\$86 million), Commissioner of Higher Education (\$36 million), and the Department of Corrections (\$34 million). However, the largest increases in percentage terms occur in the departments of Commerce, Administration, Montana Arts Council, and Labor and Industry. The discussion of budget comparisons begins on page 92 of this volume. For detail relating to individual state agencies, see Volume 3 or Volume 4.

## AGENCY BUDGET COMPARISON BY FUND

This comparison, detailed beginning on page 96, looks at appropriations contained in HB 2 and HB 13 (except for contingency funds). These are, by fund type, a comparison of the 2005 and 2007 biennium agency appropriations. The total funds increase is \$831.6 million, a 13.4 percent budget increase. Federal fund increases constitute about 44 percent of all budget increases and general fund increases constitute 41 percent. About 14 percent of the increase was state special revenue funds.

General fund increases by net \$342.7 million, or 14.9 percent. Major reasons for this net increase are:

- K-12 education for inflationary adjustments, 3-year averaging of enrollment for entitlement calculation purposes, an increase in entitlement payments for both elementary and high school students, and increases to several other payments to schools such as special education
- Within human services, replacement of federal funding due to a reduction in the federal Medicaid participation rate, caseload and utilization increases (primarily Medicaid), service expansions, provider and direct care worker rate increases, and increased institutional costs
- Measures to address increasing corrections populations, including additional probation and parole officers, a revocation center, and services and facilities for special needs inmates
- Several initiatives in higher education, including expanded community and Tribal college support, "shared leadership" initiatives, student financial assistance, and an increase in the level of general fund used to fund several present law adjustments to reduce tuition increases
- The 2007 biennium pay plan
- Computer systems, including funding replacement

State special revenue increases by \$118.4 million, or 11.9 percent, with more than three quarters of that increase coming from increases in the Department of Public Health and Human Services. These increases relate to expenditure of funds generated by passage of I-149 in November 2004 for various health initiatives. Other significant increases occurred in the Department of Labor and Industry for increased professional and occupational board activity; in the Department of Fish, Wildlife, and Parks for a hunter access program and other activities, and in the State Auditor's Office for implementation of tax credits for small employer health insurance enacted in HB 667. Several agencies have decreases in state special revenue spending with the largest being \$14.5 million for the Department of Environmental Quality and \$10.2 million in the Governor's Office budget.



Federal funds increase by \$396.6 million, or 12.8 percent. The increase is spread throughout state government, but the Department of Public Health and Human Services receives almost \$306 million, or over 82 percent of the increase. The major factors causing the increase in federal funds are:

- Caseload growth, service utilization, and inflation, particularly in Medicaid, food stamps, childcare, and TANF
- Provider rate increases (including an expansion in voluntary hospital and nursing home bed tax assessments used to match federal funds) and direct care worker wage increases;
- Service expansions, in large part through Medicaid redesign; and
- New or expanded categorical grants.

These increases are partially offset by a reduction in the federal Medicaid participation rate. Within other agencies of state government, increases in federal funds are due to increased activity and/or grant awards in several agencies, most notably the Office of Public Instruction and environmental/wildlife agencies; addition of authority to implement the Help America Vote Act in the Secretary of State's Office; and increased student loan volume in the Montana University System.

Proprietary funds show a net decrease of \$0.9 million, or 3.4 percent, primarily due to the addition of funds for completion of a gambling automated accounting and reporting system.



**What other fiscal issues addressed by the 2005 Legislature are important to consider?**



## **HIGHLIGHTS OF OTHER BUDGET OR FISCAL ACTIONS**

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The "Other Budget or Fiscal Actions" section (page 103) discusses several issues of either statewide or multi-agency fiscal impact. It addresses significant issues contained in HB 2, other "cat and dog" bills, statutory appropriations, and issues not related to any specific legislation. The following provides highlights of those issues.

- **State Employee Pay Plan (HB 447).** (page 105) The legislature passed a pay plan (HB 447) that includes: 1) an increase in employer contributions for health insurance of \$46 per month on January 1, 2006 and \$51 per month on January 1, 2007; and 2) pay increases on October 1 for each year of the biennium. The pay increase provides 3.5 percent or \$1,005 annually (whichever is higher) in FY 2006 and 4 percent or \$1,188 annually (whichever is higher) in FY 2007. In addition, HB 447 includes a contingency fund of \$1.5 million general fund and \$3.0 million other funds to assist agencies that have personal services budget shortfalls. The total cost of the pay plan is \$37.6 million general fund and \$37.0 million other funds.
- **State Employees – FTE Summary.** (page 107) HB 2 provides funding for a total 11,533.57 FTE state employees in FY 2006 and 11,697.52 in FY 2007, excluding the units of the Montana University System. These totals represent an increase of 412.07 FTE (3.7 percent) in FY 2007 over the FY 2005 level used for budgeting purposes.
- **Vacancy Savings.** (page 110) The legislature accepted the executive's recommendation to apply a 4 percent vacancy savings rates, with some additional exceptions – the Highway Patrol, the Student Services and Education Programs of the School for Deaf and Blind, and field services for the Child and Family Services Division of the Department of Public Health and Human Services. For the first two exceptions, no vacancy savings was applied, and for the third, a 2 percent vacancy savings was applied. The reduction applied in the state budget, excluding the university system, is estimated at \$16.8 million general fund and \$24.2 million other funds.
- **Public School Funding.** (page 111) In response to the school funding lawsuit, the 2005 Legislature passed SB 152, creating a definition of a basic quality school system that includes recognition of the resources required and the population served. The legislature also passed SB 525, which creates an interim committee to conduct a cost study, develop the funding formula and recommend revenue changes in preparation for a special session on school funding in December 2005. Although a new funding system might affect state spending on schools as early as FY 2007, the legislature appropriated funding for both years of the 2007 biennium by passing HB 63, which provided \$66.8 million in additional Base aid over the FY 2004 base levels. Additional increases totaling \$18.9 million for schools were included in HB 2, the general appropriation act, for such programs as special education, school facilities, vocational education, gifted and talented, and Indian Education for All.
- **Long Range Planning Summary.** (page 114) The 2005 Legislature approved \$473 million of grants, loans, and capital projects in the Long Range Planning (LRP) program, more than twice

the funding appropriated in these programs in the 2005 biennium. The marked increase in appropriations resulted in large part from several one-time general fund transfers and unusual appropriations in LRP programs. Funding for the LRP programs is derived from a number of different sources, with state special revenue being the largest. Grants, donations, proprietary funds, and higher education funds are the second largest source and general obligation bonds is third.

- **St. Mary Facility Rehabilitation.** (page 117) In earlier biennia, the legislature has only appropriated funds to repair serious system problems, but the 2005 Legislature took a more proactive position in relation to the project. Responding to the need for the rehabilitation of the St. Mary facilities, the legislature took steps to get the rehabilitation work started. One important action taken by the legislature was to approve SJ 9, a joint resolution requesting federal funding for the rehabilitation of the St. Mary diversion facilities and urging the support of the Montana Congressional delegation. In addition to the resolution, the legislature appropriated almost \$12 million for the initial project work.
- **Other Appropriation Bills.** (page 119) Beside HB 2, several bills were enacted that appropriated \$39.5 million in general fund, \$227.7 million in state special revenue, and \$137.8 million in other funds. Most of the general fund amount is from the state employee pay plan and most of the other funds relate to long-range building costs and expenditures of the nursing home bed utilization fee combined with the federal Medicaid matching funds.
- **Status of Tobacco Settlement Funds.** (page 122) Payment of tobacco settlement funds of \$42.1 million is expected for the 2007 biennium and interest earnings of the tobacco trust are estimated at \$7.1 million. The trust fund receives 40 percent of the settlement payments and 10 percent of the interest earnings. The general fund receives 11 percent of the payments. The remaining 59 percent of the settlement payments and 90 percent of the interest earnings are allocated to specific uses including treatment and prevention efforts and health insurance for children and others that would otherwise be uninsured.
- **Cigarette and Tobacco Tax Funds: Initiative-149.** (page 124) I-149, passed by voters in November 2004, raised taxes on tobacco products, most notably a \$1 increase per pack of cigarettes; created the health and Medicaid initiatives account for receipt of tobacco tax revenues; and established uses for I-149 revenues:
  - State matching funds to maximize enrollment of eligible children in CHIP
  - Need based prescription drug program for children, seniors, chronically ill, and disabled persons
  - Increased Medicaid services and Medicaid provider rates
  - Tax credits for small employers for assistance in providing health insurance to their employees

The new account is projected to receive \$99 million through the end of FY 2007. Because the legislature was concerned about the level of revenues that the state would receive, it delayed implementation by 6 months and lowered overall appropriations to about \$61 million. The legislature passed two bills (SB 324 – prescription drug program and HB 667 – health insurance tax credits and premium assistance for small employers) to implement I-149 and made various appropriations in HB 2.

- **Office of State Public Defender.** (page 129) The 2005 legislature passed SB 146, which establishes the Office of State Public Defender, partially in response to a lawsuit filed in district court. The lawsuit alleged that defendants that are indigent are not being provided public defender services in a fair and consistent manner among jurisdictions. Also, it argued that the current system of public defense in the state creates a conflict of interest when the judge appoints a public defender for a case that is being adjudicated by that judge. Besides moving

the public defender from one that is locally managed by numerous jurisdictions, to one managed from a statewide perspective, the legislation created a commission to head the statewide system. The total cost in the 2007 biennium is \$14.7 million general fund. When these costs are annualized for the 2009 biennium, the cost will be about \$28.3 million. Most of the spending authority for this new state level program comes from existing public defender budgets. Only \$5.7 million in new state money (in HB 2) is added in the 2007 biennium.

- **FY 2005 Supplemental Appropriations.** (page 131) The legislature provided state agencies with an additional \$55.3 million general fund in FY 2005, with the largest items being \$16 million to pay off the loan for the Department of Revenue computer system, \$9 million to complete the Crow Tribe settlement, and \$8.5 million for the settlement of the highway patrol officers' lawsuit.
- **Fund Balance Adequacy/Reserves.** (page 136) The legislature adopted a budget that includes an ending fund balance of \$76 million.
- **Federal Jobs and Growth Tax Relief Funds.** (page 138) The federal Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRR), enacted in 2003, included \$20 billion in state assistance, half for enhanced federal matching payments for Medicaid, and half for flexible assistance to states to support essential government services and unfunded federal mandates. Montana received \$50 million in support for essential state services or unfunded federal mandates and an additional approximately \$21.3 million in enhanced federal Medicaid payments (through an increased federal funds match rate) in FY 2003 and FY 2004. This one-time money was expended or committed prior to the 2005 session, but still was a consideration in the formulation of the 2007 biennium budget. Since the moneys were used in many cases to backfill the shortfall in general fund revenue that occurred in 2003 and 2004, the 2005 Legislature restored funding for some programs. For example it is estimated that the legislature added \$15 million general fund in the 2007 biennium to replace the expired additional federal Medicaid matching rate.
- **Information Technology Major Projects: Status.** (page 142) The 2005 Legislature funded several major information technology projects. It appropriated funds (\$21.4 million) to retire the debt and to complete the Department of Revenue's Integrated Revenue Information System (IRIS) project in the 2007 biennium. The legislature also funded a project to replace the existing, obsolete property tax system with a new commercial off-the-shelf system. The legislature appropriated one-time funding of \$5.5 million general fund to develop and implement a new system that will interface with IRIS, but not be a component part of IRIS, for completion in the 2007 biennium. In addition, the legislature appropriated \$448,000 state special revenue to integrate Department of Transportation financial systems over multiple biennia. The legislature also approved \$1.1 million in general fund for the Judiciary to purchase case management systems and related technology for district courts and courts of limited jurisdiction.
- **Economic Development.** (page 144) The 2005 Legislature passed legislation or made appropriations that will have an impact upon economic and community development efforts in three distinct categories: 1) a direct investment category includes legislation that provides an appropriation for economic and community development related activities; 2) the tax related initiatives category includes legislation that was enacted to stimulate business retention, expansion, or research through tax incentives; and 3) the "other" category includes all other legislation, some of which may be associated with bonding activity, other types of financing, or regulatory changes associated with removing or reducing impediments to economic and community development. The total amount appropriated is \$36.1 million, of which \$7.9 million is general fund.
- **Pension Funds – Unfunded Liabilities.** (page 147) The legislature did not pass legislation that would have raised the employer contribution rates for state retirement systems. Instead,

the legislature, in HJR 42, requested a legislative study on how public employee retirement funds are invested and how investment performance, retirement plan benefits, and legislative policy decisions interact to affect the actuarial soundness of the public employee retirement plans and employers' funding obligations.

- **General Fund/State Special Revenue Fund Statutory Appropriations.** (page 148) Statutory appropriations are a special kind of legislative appropriation. Unlike temporary appropriations that expire in two years (such as those in the general appropriations act), statutory appropriations are, as their name suggests, in statute and are not part of the biennial budgeting process. Seven bills were enacted in the 2005 session that increased general fund statutory appropriations by a net \$1 million in the 2007 biennium.
- **General Fund Non-budgeted Transfers.** (page 152) Like statutory appropriations, transfers and their authorizations are in statute and are not part of the biennial budgeting process, yet they affect the amount of money available for the legislature to appropriate for specific programs. Thirteen additional general fund transfers at a cost of \$13 million in the 2007 biennium were enacted by the legislature.
- **Proprietary Funds and Rate-Setting.** (page 154) The 2005 Legislature made one major change in internal services funds through reorganization. Responsibility for the maintenance of the capitol complex grounds has been transferred from the Department of Fish, Wildlife, and Parks to the Department of Administration, General Services Division. No change was made in either the methodology for assessing agencies for this cost or in the level of assessment made. The function is now part of the facilities management function.
- **Funding Switches.** (page 155) General fund is increased by \$67.6 million as a result of funding switches, while other funds are reduced by \$65.7 million. There are four major causes of the large amount of funding switches: 1) change in the Medicaid matching rate; 2) reallocation of revenues to the general fund; 3) legal concerns; and 4) loss of federal funds. Miscellaneous causes account for the remaining switches.
- **Fee Changes.** (page 157) In approximately 40 bills, the 2005 Legislature enacted changes to fees (increases or decreases) and created new fees that will raise an estimated net \$61.5 million in the 2007 biennium. Of that amount, \$37.4 million is reflected in appropriations in the general appropriations act (HB 2). The increased fee revenue, which will mostly be deposited in accounts other than the general fund, will be used to fund new and existing agency programs.
- **Legislative Interim Studies.** (page 158) The legislature approved 22 interim studies that have been assigned to various interim committees.
- **Other Major Funds.** (page 159)
  - Highways Special Revenue Account – Projections for the highways state special revenue account indicate that expenditures from the account will exceed account revenues and the working capital balance would be depleted by the end of FY 2007. This situation of excess expenditures is expected to continue through the foreseeable future. Expenditures at the level appropriated by the legislature are expected to exceed revenues by nearly \$53.7 million during the 2007 biennium and the account is forecast to end the 2005 biennium with a nearly depleted account balance. At the current level of services, expenditures could exceed revenues by nearly \$44.0 million during the 2009 biennium.
  - Resource Indemnity Trust – In February of 2002, the Governor certified that the balance of the RIT trust had exceeded the \$100 million threshold. Consequently, the trust no longer receives revenue. Interest earnings are used as a funding source for several funds, and the amount of revenue in excess of the \$100 million corpus is available for appropriation. The legislature appropriated funds from the corpus of the trust, interest

from the trust, and indemnity related taxes to provide \$27.6 million worth of support to two universities, four agencies, and numerous local governmental agencies through the grant and loan programs. Five pieces of legislation were passed that affected the utilization of trust dollars through transfers and new appropriations. The legislature also chose to address the issues regarding the potential inappropriate utilization and lack of oversight of the funds, by passing a resolution for a study of the structure, historical usage, and statutes related to the resource indemnity funds.

- o Coal Severance Tax Shared Account – The coal tax shared account receives a portion of coal severance revenues for further distribution to specific programs. Entities in the coal tax shared account include the Coal Board in the Department of Commerce (through FY 2005), Conservation Districts in the Department of Natural Resources and Conservation, Growth Thru Agriculture in the Department of Agriculture, and the Montana State Library Commission. Two pieces of legislation were passed that affected the allocation of tax dollars to the fund. HB 482 increases the amount of coal severance tax revenues flowing into the coal tax shared account from 7.75 percent to 8.36 percent. The legislature appropriated increases in state special revenue by \$389,606 to implement the provisions in HB 482. HB 758 creates a new oil, gas, and coal natural resource state special revenue account, which dedicates revenue to the Department of Commerce and the Department of Revenue. Revenues for the new account come from the coal severance tax and the oil and gas production tax. Passage of HB 482 allocates 8.36 percent of the coal severance tax revenues to the coal tax shared account, a state special revenue account. However, HB 758 will reduce this amount to 5.46 percent, and the difference, 2.90 percent, will go to the new account and be administered by the Coal Board in the Department of Commerce. The Coal Board will no longer be a participant in the coal tax shared account.







## 2009 BIENNIUM OUTLOOK

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### GENERAL FUND

#### STRUCTURAL BALANCE

Structural balance is defined as the matching of *ongoing* revenues with *ongoing* expenditures. If revenues equal or exceed expenditures, structural balance is achieved. Conversely, if expenditures exceed revenues, structural imbalance occurs. By the end of the 2007 biennium, the general fund structural balance is expected to be a positive \$2.3 million, even though a negative structural balance in FY 2006 makes the biennium appear to have a structural imbalance of a negative \$5.1 million.

#### OUTLOOK FOR THE 2009 BIENNIUM

The projected structural balance for FY 2007 is positive at \$2.3 million. Although the state could be considered structurally balanced at that time, there are fiscal "potholes" that could be troublesome as the state moves toward the next biennium. For example, the financial resolution to the public school lawsuit, the increased costs of the phased-in employee pay proposal, rising corrections populations, and continued double digit medical inflation coupled with the potential reduction in federal Medicaid funding could easily consume average revenue growth for the 2009 biennium. Structural balance depends on the ability of ongoing revenue to meet anticipated present law disbursement costs. If average revenue growth is in the range of 3.0 to 3.5 percent per year, then the costs of present law services cannot exceed this amount without tax policy modifications and/or an adjustment to services provided.

#### HIGHWAYS STATE SPECIAL REVENUE ACCOUNT PROJECTIONS

The highways state special revenue account funds the Department of Transportation highway planning, construction, and maintenance activities, highway safety enforcement activities in the Department of Justice, road maintenance functions in state parks, and capital projects related to highways infrastructure. The highways state special revenue account is chronically structurally imbalanced, and the level of revenue growth cannot sustain the level of expenditure growth needed to support the services provided. The projections show the account is anticipated to be expended at a higher level than expected revenues for the 2007 biennium (expenditures will exceed revenues by \$53.7 million), and the account is projected to go negative in FY 2007. If federal funds increase as anticipated when federal highway funding legislation is reauthorized, and if a full match of available federal funds is to be achieved to provide a fully funded highways program, a revenue increase may be needed.



# LEGISLATIVE BUDGET SUMMARY

**Introduction**

**2007 Biennium Budget Solution**

**General Fund Summary**

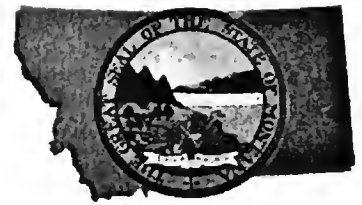
**Revenue Summary**

**Appropriations Summary**

**Expenditure Limitation**







## INTRODUCTION

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The purpose of this section is to provide the reader with a summary of the 2007 biennium budget as adopted by the 59<sup>th</sup> Legislature. It provides the reader with a general overview of the budget from both sides of the equation, revenue and appropriations.

The first chapter begins with a high level discussion of how the legislature addressed solutions to the 2007 biennium budget.

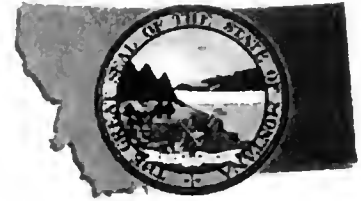
The next chapter provides a summary of the general fund balance as projected through the 2007 biennium (\$76 million), using legislative adopted revenue estimates and appropriations.

The third chapter, "Revenue Summary", provides a summary of the general fund revenue estimates as adopted in House Joint Resolution 2 (\$2.905 billion), plus the revenue impacts of legislation passed in the 2005 session (a negative \$18.4 million), to arrive at the total general fund revenue projection for the 2007 biennium (\$2.886 billion). It also includes a summary of selected non-general fund revenue estimates. It further provides a summary of tax policy and initiatives adopted by the 2005 Legislature, including a bill-by-bill summary of major tax policy and major revenue bills adopted in the 2005 session. This chapter provides highlights of the information provided in Volume 2 of this report, "Revenue Estimates".

The fourth chapter in this section, "Appropriations Summary", summarizes the major legislative appropriations for operating state governments in HB 2 (general appropriations act) and HB 447 (employee pay plan). It provides major highlights of appropriations plus a summary of appropriations by program area and fund type. This chapter provides data in summarized form of the information provided in detail for budgets of each state agency in Volumes 3 and 4 of the 2007 Biennium Legislative Fiscal Report, "Agency Budgets".

The final chapter, "Expenditure Limitation", discusses the statutory expenditure limitation that came into play during the 2005 session. It provides a description of what goes into the calculation of the expenditure limitation, the status of the limit when the session was over, and the implications of the expenditure limit through the 2007 biennium.





## 2007 BIENNIUM BUDGET SOLUTION

For the first time in a number of biennia, the 59<sup>th</sup> Legislature was faced with a significant available balance in the general fund account after funding “present law” services for the 2007 biennium. To help understand the state budgeting process, Figure 1 shows the financial condition of the general fund account before and after legislative action. By showing the information this way, it becomes clear how the general fund budget solution was developed and the “building blocks” that were used to create the budget.

As shown in Figure 1 Part A, the available balance in the general fund for the 2007 biennium was \$522.9 million **before any legislative action**. This amount is based on revenue estimates adopted by the Revenue and Transportation Committee on November 16, 2004, a statutorily defined disbursement base of fiscal 2004 actual disbursements adjusted for one-time only costs, and estimated amounts for statutory appropriations, transfers, and other miscellaneous adjustments. This available balance does not include anticipated supplementals, legislative session costs, ending fund balance reserves, or anything else that requires legislative action. In essence, the 59<sup>th</sup> Legislature could have appropriated the disbursement amounts shown without any other adjustments and the balance in the general fund would have been \$522.9 million.

Figure 1

<b>Summary of General Fund Financial Condition</b>	
<b>Before and After Legislative Action (in Millions)</b>	
<b>Part A. - Pre-Session Financial Condition</b>	
<b>Beginning Fund Balance 2007 Biennium (Before Supplementals &amp; Feed Bill)</b>	<b>\$214.376</b>
Revenue & Transportation Revenue Estimates	2,898.316
Disbursement Base (Actual Fiscal 2004 times 2)	(2,275.572)
Statutory Appropriations & Transfers	(309.922)
All Other Adjustments	(4.314)
<b>Ending Fund Balance Before Legislative Action</b>	<b>\$522.884</b>
<b>Part B. - Summary of Legislative Action - Amount of Change</b>	
<b>Fiscal 2005 Adjustments</b>	
Revenue Estimate Adjustments & Revenue Legislation Impacts	12.957
Disbursement Adjustments	(65.753)
Statutory Appropriations & Transfers Adjustments	5.056
Other Adjustments	(4.198)
<b>2007 Biennium Adjustments</b>	
Revenue Estimate Adjustments & Revenue Legislation Impacts	(11.634)
Adjustments to Disbursement Base	
Statewide Adjustments	(15.426)
Present Law Adjustments	(166.704)
New Proposals	(182.762)
Statutory Appropriations & Transfers Adjustments	(13.834)
Other Adjustments	(4.618)
<b>Ending Fund Balance After Legislative Action</b>	<b>\$75.968</b>

Part B of Figure 1 provides a summary of legislative action as measured by the amount of change from Part A. Part B is categorized by changes to fiscal 2005 amounts and adjustments to the 2007 biennium amounts. Fiscal 2005 adjustments include revenue estimate and revenue legislation impacts, supplemental appropriations, legislative session appropriations, and adjustments to statutory appropriations and transfers. Total adjustments to the fiscal 2005 budget was a negative \$51.9 million (revenues and disbursements combined). The most significant adjustment was the adopted supplemental appropriations of \$55.3 million (see page 131 for the details). The other fiscal 2005 adjustments are explained on page 40 of the General Fund Summary – Fund Balance section.

The 2007 biennium adjustments include revenue estimate and revenue legislation impacts, adjustments to the disbursement base, 2007 legislative session anticipated costs, and adjustments to statutory appropriations and transfers. Total adjustments to the 2007 biennium budget was a negative \$395.0 million (revenues and disbursements combined). As shown in Part B of Figure 1, adjustments to the disbursement base are categorized by statutorily defined terms of statewide adjustments, present law adjustments, and new proposals. All of these adjustments occurred in HB2 (general appropriations act) and HB 447 (employee pay proposal).

As shown at the bottom of Figure 1, the projected ending fund balance **after all legislative action** for both fiscal 2005 and the 2007 biennium adjustments is \$76.0 million. In other words, if the revenue estimates used by the legislature are 100 percent accurate and state agencies expend their total appropriations, the state general fund would have a balance of \$76.0 million on June 30, 2007. It should be noted that this balance does not include any additional amounts for wildfire suppression costs, emergency costs due to natural disasters, supplemental appropriations for fiscal 2007, and potential additional funding for the public school lawsuit.

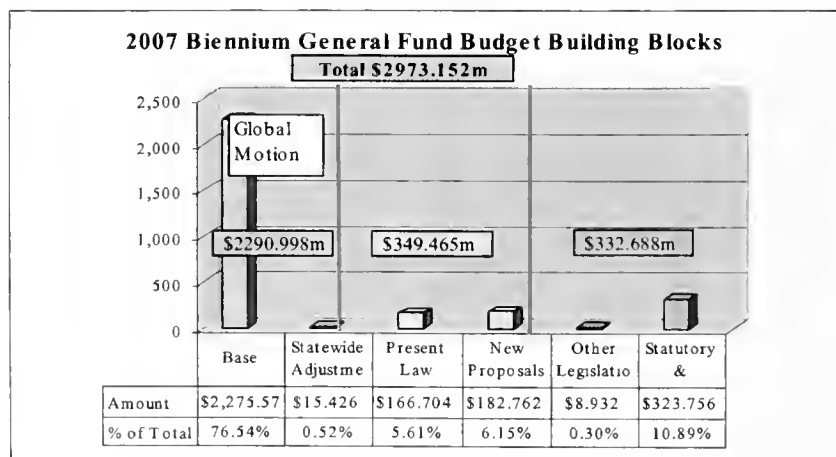


Figure 2

Figure 2 shows the allocation of the available funds for the 2007 biennium to the major disbursement categories or “building blocks” (base, statewide, present law, new proposals, other, and statutory and transfers). As shown in Figure 2, the base amounts to 76.5 percent of the total budget while statewide, present law, and new proposals account for 12.3 percent of the total budget. Statutory, transfers, and all other amount to 11.3 percent of the total budget. As indicated in the figure, the base and statewide

adjustments (77.1 percent) are adopted in a “global motion” at the beginning of the session. In most instances, the remainder of the legislative session is devoted to the discussion of present law adjustments, new proposals, and other legislation. In a majority of instances, statutory and transfer authorizations are not reviewed or discussed throughout the session. Since these amounts are nearing 11 percent of the total budget, a more formal review and discussion process of these amounts should be considered by the legislature.



As shown in Figure 2, the total general fund budget for the 2007 biennium is \$2.973 billion. Of this amount, \$2.291 billion is the base plus statewide adjustments, \$349.6 million is present law adjustments and new proposals, and \$332.7 million is statutory, transfers, and other legislation. As previously mentioned, the new proposal amount includes the employee pay plan authorized in HB 447.

Figure 3

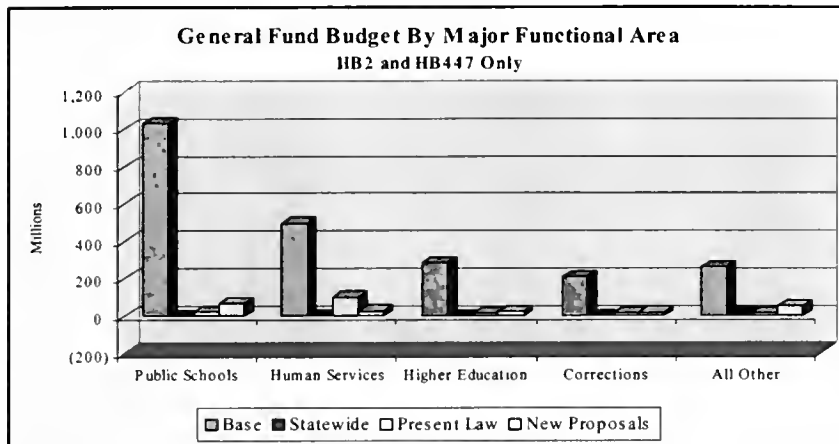


Figure 3 shows the general fund budget for the 2007 biennium by major functional area (public schools, human services, higher education, corrections, all other). The amounts shown in Figure 3 are the appropriations contained in HB 2 (general appropriations act) and HB 447 (employee pay plan) categorized by base, statewide adjustments, present law adjustments, new proposals, and total budget.

Major Functional Area	Base Times 2	Statewide Adjust.	Present Law	New Proposals	Total Changes	Total Budget
Public Schools	1,028.170	0.311	22.567	64.412	87.290	1,115.460
Human Services	496.898	2.102	100.084	25.471	127.657	624.555
Higher Education	281.558	(2.846)	11.785	23.819	32.758	314.316
Corrections	208.038	1.043	16.809	18.804	36.656	244.694
All Other	260.910	14.816	15.460	50.256	80.532	341.442
<b>Totals</b>	<b>\$2,275.574</b>	<b>\$15.426</b>	<b>\$166.705</b>	<b>\$182.762</b>	<b>\$364.893</b>	<b>\$2,640.467</b>
<b>Percent of Total Amount</b>						
Public Schools	45.18%	2.02%	13.54%	35.24%	23.92%	42.24%
Human Services	21.84%	13.63%	60.04%	13.94%	34.98%	23.65%
Higher Education	12.37%	-18.45%	7.07%	13.03%	8.98%	11.90%
Corrections	9.14%	6.76%	10.08%	10.29%	10.05%	9.27%
All Other	11.47%	96.05%	9.27%	27.50%	22.07%	12.93%

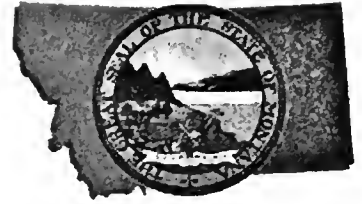
As indicated in the figure, public schools received the largest allocation of available funds at \$1.115 billion (42.2 percent) of the authorizations contained in HB 2 and HB 447. Human services was allocated \$624.6 million (23.7 percent) while higher education received \$314.3 million (11.9 percent) with corrections receiving \$244.7 million (9.3 percent). All "other" agencies of

state government were allocated \$341.4 million (12.9 percent).

The figure also shows the total amount of change adopted as statewide adjustments, present law adjustments, and new proposals (total change). From the perspective of the change amount, human services was top priority for funding since that area received 35.0 percent of the total change amount or \$127.7 million. Public schools received 23.9 percent of the change amount or \$87.3 million. Whether directly or indirectly, the legislature prioritized funding in the order of human services, public schools, all "other" agencies, corrections, and higher education.

In summary, the 59<sup>th</sup> Legislature adopted a balanced budget for the 2007 biennium with a projected ending fund balance of \$76.0 million. The budget solution was crafted with a significant number of budget changes that were primarily focused on present law adjustments and new proposals. The largest new proposal was for the employee pay plan of \$37.6 million general fund (see page 105 for details). There were a significant number of revenue bills enacted but these impacts combined with revenue estimate adjustments had an insignificant impact on the 2007 biennium revenues.





## **GENERAL FUND SUMMARY**

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### **INTRODUCTION**

The general fund is the primary account that funds a majority of the general operations of state government. General fund expenditures represent about 37.5 percent of all state expenditures in the general, state special, federal special, and selected proprietary fund types authorized in HB2 (general appropriations) and HB447 (pay plan). Total revenues to the account for the 2007 biennium are estimated to be slightly less than \$2.887 billion, which is an increase of \$107.5 million (3.9 percent) from the 2005 biennium. Included in this increase is the impacts of SB407 (individual income tax reduction) adopted by the 58<sup>th</sup> Legislature and all other tax policy/revenue legislation enacted by the 59<sup>th</sup> Legislature. There were a total of 57 bills approved that impacted general fund revenue for the fiscal period 2005 through 2007. Total impact of this legislation is estimated to reduce revenues \$32.8 million over the 3-year period.

Total disbursements from the account for the 2007 biennium are estimated to be \$2.973 billion, which is an increase of \$320.8 million (12.1 percent) from the 2005 biennium. This amount understates the true increase since \$55.3 million in supplemental appropriations were approved for the 2005 biennium while no supplemental appropriations were budgeted for the 2007 biennium. There were a total of 34 bills approved that impacted general fund disbursements for the fiscal period 2005 through 2007.

Balancing general fund appropriations against anticipated revenues is a major challenge of each legislature and requires a significant coordination between the taxation and appropriation committees. Based on legislative revenue estimates, there are sufficient revenues to support the total general fund budget, leaving an ending fund balance of \$76.0 million. This projected balance does not include any anticipated supplemental appropriations or potential expenditures for emergencies during the 2007 biennium.

This section provides a summary of the general fund account as projected through the 2007 biennium. It begins with a reconciliation of the current (2005 biennium) projected fund balance in order to arrive at the beginning balance for the 2007 biennium. It is followed by a summary of the 2007 biennium projected general fund balance using legislative revenue estimates and appropriations. An overview of significant legislative revenue and disbursement actions is included.

### **2005 BIENNIUM ENDING FUND BALANCE**

After completion of the regular Legislative Session (April 2003), the general fund balance was projected to be \$46.2 million. This balance was based on: 1) revenue estimates adopted in HJR 2; 2) LFD statutory appropriation and reversion estimates; and 3) all general fund appropriations authorized by the legislature. The 58<sup>th</sup> Legislature anticipated there would be no supplemental appropriations requested during the 2005 biennium.

As shown in Figure 1, the revised general fund balance at the end of the 2005 biennium is projected to be \$162.4 million. The revised projection for the 2005 biennium general fund balance is based on: 1) revenue estimates amended by the 2005 legislature in HJR 2; 2) LFD statutory appropriation and reversion estimates; and 3) general fund appropriations, including supplemental appropriations, adopted by the 59<sup>th</sup> Legislature. This projected balance equals 5.8 percent of anticipated revenues for the 2005 biennium and is \$116.2 million above the balance anticipated by the 58<sup>th</sup> Legislature.

Figure 1

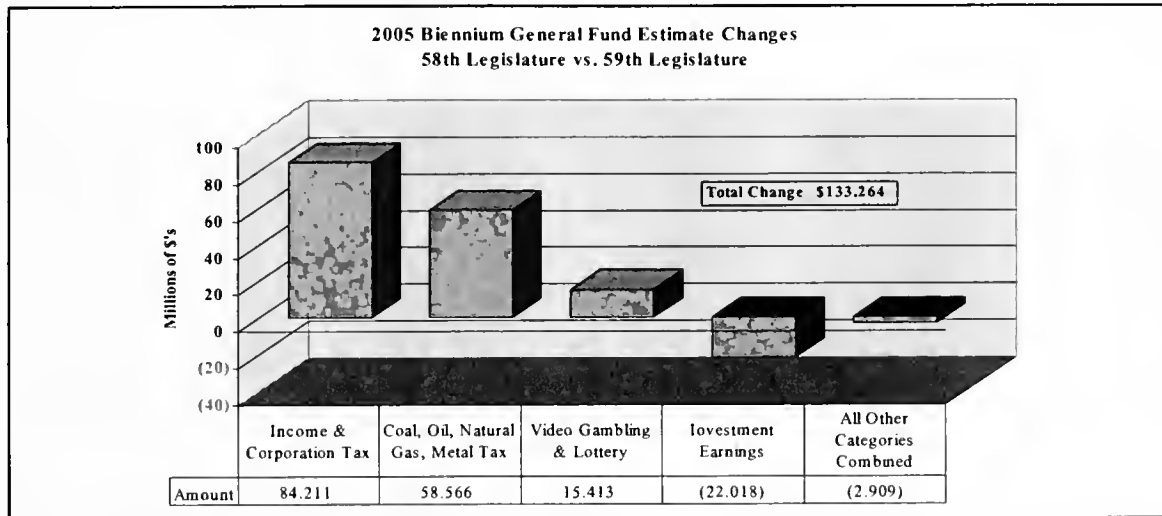
<b>Comparison of 2005 Biennium General Fund Balance Post Session Budget vs. LFD Fiscal Report (In Millions)</b>			
	Regular Session 2005 Biennium	Fiscal Report 2005 Biennium	Difference 2005 Biennium
<b>Beginning Fund Balance</b>	<b>\$16.521</b>	<b>\$43.065</b>	<b>\$26.544</b>
<b>Revenues</b>			
Current Law Revenue	2,645.895	2,793.517	147.622
Legislation Impacts		(14.356)	(14.356)
<b>Total Revenue</b>	<b>\$2,645.895</b>	<b>\$2,779.161</b>	<b>\$133.266</b>
<b>Total Funds Available</b>	<b><u>\$2,662.416</u></b>	<b><u>\$2,822.226</u></b>	<b><u>\$159.810</u></b>
<b>Disbursements</b>			
General Appropriations	2,319.761	2,329.457	9.696
Statutory Appropriations	259.768	255.260	(4.508)
Miscellaneous Appropriations	6.350	4.351	(1.999)
Non-Budgeted Transfers	31.165	22.465	(8.700)
Supplemental Appropriations		55.253	55.253
Language Appropriations	0.646	5.222	4.576
Feed Bill Appropriations	6.699	6.900	0.201
Anticipated Reversions	(8.191)	(26.549)	(18.358)
<b>Total Disbursements</b>	<b><u>\$2,616.198</u></b>	<b><u>\$2,652.359</u></b>	<b><u>\$36.161</u></b>
<b>Adjustments</b>		(7.429)	(7.429)
<b>Projected Ending Fund Balance</b>	<b><u>\$46.218</u></b>	<b><u>\$162.438</u></b>	<b><u>\$116.220</u></b>

The increase in the projected general fund balance is due to several factors that have transpired since the adjournment of the 58<sup>th</sup> Legislature. Total general fund revenues (revenues plus legislation impacts) are expected to be \$133.3 million more than anticipated, while disbursements are expected to be \$36.2 million more than authorized by the 58<sup>th</sup> Legislature. Fund balance adjustments are expected to be a negative \$7.4 million. Fund balance adjustments were not anticipated by the 58<sup>th</sup> Legislature.

The improved revenue condition (\$133.3 million) can be attributed to the factors shown in Figure 2. As shown in the figure, the three income sources primarily responsible for Montana's revenue picture reversal are individual income, corporation income, and oil and natural gas production taxes. Individual income tax has experienced increased growth resulting in large part from the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 (federal tax policy changes), an improvement in wage growth (especially in real wage growth per worker), and a higher capital gains base in calendar 2003. The corporation income tax has rebounded as Montana and multi-state corporations have recovered from the 2001 recession and the effects of "9/11". Additionally, the impact of the federal stimulus bonus depreciation provisions of calendar 2002 and 2003 will now create a decrease in the amount of

depreciation expense corporations can claim in future years. This will result in increased tax liabilities. Finally, both oil and natural gas prices have increased dramatically in response to the war in Iraq and uncertainty about future supplies. As a result of the higher prices, new drilling activity for oil is up substantially. Production levels are once again increasing, reversing the production declines observed during the last ten years.

Figure 2



The primary reasons for the change in disbursements (\$36.2 million) are as follows:

#### Decreased Disbursements

- Unanticipated reversions are caused mainly by the offset of general fund appropriations in DPHHS with increased federal FMAP federal funds from the passage of the federal Jobs and Growth Tax relief Reconciliation Act;
- Decreased statutorily appropriated payments for debt service on bonds and TRANS, offset slightly by increased retirement payments;
- Decreased non-budgeted transfers of vehicle fee revenue due to unanticipated consequences of new legislation in the 2003 session and enactment of SB 212 by the 2005 legislature that eliminated the transfer of \$9.0 million of US royalty revenue out of the general fund. The decreases were offset by increased net US royalty revenue transfers (due to greater revenue), unanticipated DPHHS program transfers, the transfer of proceeds from the sale of the Bozeman armory, and enactment of HB 170, HB 761, and SB 87 that increased transfers by \$13.9 million; and
- Decreased miscellaneous appropriations caused by biennial appropriations not being fully spent in FY 2004. The continuing balances of these appropriations are included in "general appropriations". In addition, the 2005 legislature enacted HB 713 that increased appropriations by \$0.1 million.

#### Increased Disbursements

- Supplemental appropriations of \$55.3 million not anticipated by the 58th legislature (see page 131, for more details);
- Increased general appropriations due to the unspent balances of miscellaneous appropriations continuing into FY 2005; and

- o Greater expenditures than anticipated from the language appropriation allowing the Judiciary to spend reversions from the 2003 biennium and a \$3.5 million language appropriation to OPI if revenues from school trust land are less than anticipated.

As Figure 1 shows, the combined impact of higher revenues, reduced disbursements, and negative fund balance adjustments is a net increase in the projected fund balance of \$116.2 million for the 2005 biennium.

## 2007 BIENNIUM PROJECTION

Figure 3 shows the 2007 biennium projected balance in the general fund account prior to and after the 59<sup>th</sup> Legislature. The purpose of this comparison is to highlight legislative action that established the 2007 biennium budget.

Comparison of 2007 Biennium General Fund Balance Pre-Session Present Law vs. Post-Session Total Budget (In Millions)			
	Pre Session 2007 Biennium	Post Session 2007 Biennium	Difference 2007 Biennium
<b>Beginning Fund Balance</b>	<b>\$158.406</b>	<b>\$162.438</b>	<b>\$4.032</b>
<b>Revenues</b>			
Current Law Revenue	2,898.316	2,905.116	6.800
Legislation Impacts		(18.434)	(18.434)
<b>Total Funds Available</b>	<b><u>\$3,056.722</u></b>	<b><u>\$3,049.120</u></b>	<b><u>(\$7.602)</u></b>
<b>Disbursements</b>			
General Appropriations			
Human Services	597.721	624.554	26.833
Corrections	233.189	244.694	11.505
Higher Education	290.501	314.315	23.814
Public Schools	1,051.049	1,115.461	64.412
Other Agencies	295.821	341.440	45.619
<b>Total Gen. Appropriations</b>	<b><u>\$2,468.281</u></b>	<b><u>\$2,640.464</u></b>	<b><u>\$172.183</u></b>
Statutory Appropriations	268.691	269.321	0.630
Miscellaneous Appropriations		3.325	3.325
Non-Budgeted Transfers	41.231	54.435	13.204
Supplemental Appropriations			
Language Appropriations		1.700	1.700
Feed Bill Appropriations	10.150	10.150	
Anticipated Reversions	<u>(5.836)</u>	<u>(6.243)</u>	<u>(0.407)</u>
<b>Total Disbursements</b>	<b><u>\$2,782.517</u></b>	<b><u>\$2,973.152</u></b>	<b><u>\$190.635</u></b>
<b>Adjustments</b>			
<b>Projected Ending Fund Balance</b>	<b>\$274.205</b>	<b>\$75.968</b>	<b>(\$198.237)</b>
Wildfire Suppression Cost Reserve	14.090		(14.090)
Emergency Appropriation Reserve	0.800		(0.800)
<b>Unreserved Ending Fund Balance</b>	<b><u>\$259.315</u></b>	<b><u>\$75.968</u></b>	<b><u>(\$183.347)</u></b>

Figure 3

The pre-session estimate of a positive \$274.2 million general fund balance was developed under the constraints of Section 5-12-303, MCA. This statute requires the executive and the Legislative Fiscal

Analyst to develop and analyze the biennium budget using base, present law, and new proposals as defined in Section 17-7-102, MCA. In essence, the projected balance of \$274.2 million would have been the balance if the legislature had continued state government operations at the "present" authorized level, including all existing taxation policies.

The second estimate of \$76.0 million is the post-session estimate that incorporates all legislation enacted by the 59<sup>th</sup> Legislature. Figure 3 highlights significant revenue and disbursement actions. The following discussion briefly explains these actions.

## SIGNIFICANT REVENUE ACTIONS

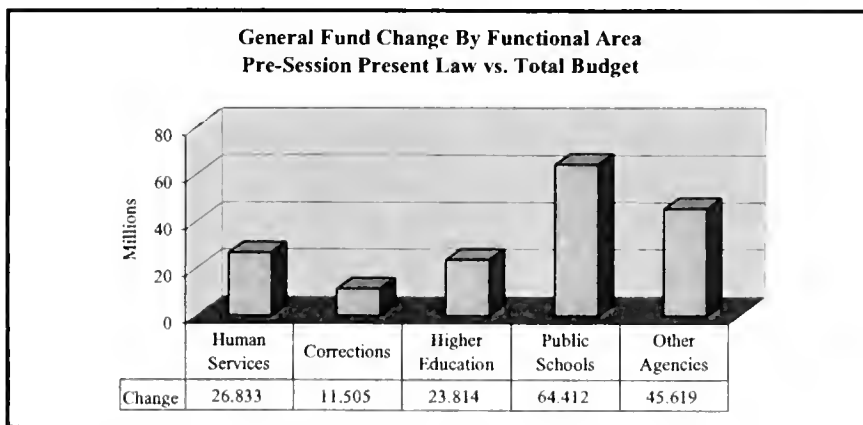
The 59<sup>th</sup> Legislature increased the 2007 biennium general fund revenue estimates by \$6.8 million, primarily due to higher oil and natural gas prices. These increases were somewhat mitigated by reduced anticipated revenues from capital gains on bond sales and lower interest rates. In addition, the legislature passed tax policy/revenue legislation which decreased state general fund revenue (see page 47). For the 2007 biennium, total general fund revenues were decreased by \$18.4 million due to enacted legislation.

A more detailed summary of general fund revenues and revenue impacts of enacted legislation is provided in the "Revenue Summary".

## SIGNIFICANT DISBURSEMENT ACTIONS

As shown in Figure 4 the 59<sup>th</sup> Legislature increased general fund general appropriations (HB2 plus HB447) by \$172.2 million. This increase was due to changes in human services, corrections, higher education, and public schools. The largest dollar increases were for public schools and other agencies. Other agencies include judiciary, justice, and public defender.

Figure 4



The legislature also adopted an employee pay plan for the 2007 biennium. The pay plan increase in HB 447 is \$70.0 million, with \$36.0 million being provided by the state general fund. (See "State Employee Pay Plan", on page 105 for additional details.)

As with previous legislative sessions, there are numerous miscellaneous appropriations ("cat and dog" bills) that were

discussed throughout the session. The 59<sup>th</sup> Legislature enacted numerous miscellaneous appropriations for a total of \$3.3 million. Most of the increases in appropriations fund personal services contingencies, a dinosaur park in Malta, and Braille services. These bills are discussed in more detail in agency narratives of Volumes 3 and 4 of this publication and on page 119 of this Volume.

Total appropriations for statutory and authorizations for non-budgeted transfers is \$323.8 million, or 10.9 percent of the total general fund budget (see Figure 3). Because these authorizations are outside the general legislative appropriations sub-committee process, they do not receive the same level of review as appropriations in HB 2. The 59<sup>th</sup> Legislature enacted five new statutory appropriations and

changed existing ones for an increase of \$0.6 million. The legislature also enacted eight new transfers and changed existing ones for an increase of \$13.2 million.

The legislature authorized the executive in HB 2 language to establish appropriations totaling \$1.7 million for POINTS replacement and to replace money transferred out of the Workers' Compensation old fund.

## CONTINGENCIES

No estimate is included in the projected fund balance for increased expenditures due to emergencies and/or contingencies. These include supplemental budget requests, which historically exceed \$20 million per biennium, fire suppression costs, and other emergencies (such as flooding).

Figure 5 shows the detailed general fund balance sheet. The 2007 biennium ending general fund balance is projected to be \$76.0 million, including all initiatives adopted by the legislature. It should be noted that this projected balance does not include additional revenue currently being received in excess of the revenue estimates used by the 59<sup>th</sup> Legislature.

2007 Biennium General Fund Balance Based on Action by the 59th Legislature (In Millions)						
	Actual Fiscal 2004	Estimated Fiscal 2005	Estimated Fiscal 2006	Estimated Fiscal 2007	Estimated 2005 Biennium	Estimated 2007 Biennium
<b>Beginning Fund Balance</b>	<b>\$43.065</b>	<b>\$132.873</b>	<b>\$162.438</b>	<b>\$109.683</b>	<b>\$43.065</b>	<b>\$162.438</b>
<b>Revenues</b>						
Current Law Revenue	1,381.565	1,411.952	1,429.768	1,475.348	2,793.517	2,905.116
Legislation Impacts		(14.356)	(8.873)	(9.561)	(14.356)	(18.434)
<b>Total Fnnds Available</b>	<b>\$1,424.630</b>	<b>\$1,530.469</b>	<b>\$1,583.333</b>	<b>\$1,575.470</b>	<b>\$2,822.226</b>	<b>\$3,049.120</b>
<b>Disbursements</b>						
General Appropriations	1,161.831	1,167.626	1,311.367	1,329.097	2,329.457	2,640.464
Statutory Appropriations	126.600	128.660	134.343	134.978	255.260	269.321
Miscellaneous Appropriations	1.866	2.485	1.521	1.804	4.351	3.325
Non-Budgeted Transfers	10.052	12.413	24.926	29.509	22.465	54.435
Supplemental Appropriations		55.253			55.253	
Language Appropriations	1.372	3.850	1.700		5.222	1.700
Feed Bill Appropriations		6.900	2.100	8.050	6.900	10.150
Anticipated Reversions	(19.683)	(6.866)	(2.307)	(3.936)	(26.549)	(6.243)
<b>Total Disbursements</b>	<b>\$1,282.038</b>	<b>\$1,370.321</b>	<b>\$1,473.650</b>	<b>\$1,499.502</b>	<b>\$2,652.359</b>	<b>\$2,973.152</b>
<b>Adjustments</b>	(9.719)	2.290			(7.429)	
<b>Reserved Ending Fund Balance</b>	<b>\$132.873</b>	<b>\$162.438</b>	<b>\$109.683</b>	<b>\$75.968</b>	<b>\$162.438</b>	<b>\$75.968</b>
Wildfire Suppression Cost Reserve						
Emergency Appropriation Reserve						
<b>Unreserved Ending Fund Balance</b>	<b>\$132.873</b>	<b>\$162.438</b>	<b>\$109.683</b>	<b>\$75.968</b>	<b>\$162.438</b>	<b>\$75.968</b>
<b>Net Operations</b>	<b>\$99.527</b>	<b>\$27.275</b>	<b>(\$52.755)</b>	<b>(\$33.715)</b>	<b>\$126.802</b>	<b>(\$86.470)</b>

Figure 5





## REVENUE SUMMARY

### GENERAL FUND REVENUE ESTIMATES

This section provides a summary of the general fund revenue estimates for the 2007 biennium, including these in the revenue estimating resolution (HJR 2), the revenue impacts of Legislation, and the total estimates when these two categories are combined. It also includes a summary of select non-general fund revenue estimates.

### HOUSE JOINT RESOLUTION 2

During November 2004, prior to the convening of the Fifty-ninth Legislature, the Revenue and Transportation Interim Committee (RTIC) formally adopted economic assumptions and the associated revenue estimates for fiscal 2005, 2006 and 2007. This process is in accordance with 5-18-107, MCA, which states that these estimates "constitute the legislature's current revenue estimates until amended or until final adoption of the estimates by both houses." The actions taken by the RTIC were incorporated into HJR 2 and were introduced at the beginning of the Fifty-ninth Legislature. During the legislative process, the legislature amended HJR 2 and made some adjustments to the recommendations offered by the RTIC.

Figure 1 shows the total general fund impact of the adopted revenue adjustments by the House and Senate by revenue issue. For the three-year period, fiscal 2005 through 2007, total general fund revenue estimates were increased by \$34.1 million from the recommendations of the RTIC.

Revenue Estimate Adjustments by 59th Legislature General Fund In Millions				
Revenue Issue	Fiscal 2005	Fiscal 2006	Fiscal 2007	3-Year Total
<b>Revenue and Transportation Committee</b>	<b>\$1,384.639</b>	<b>\$1,429.143</b>	<b>\$1,469.173</b>	<b>\$4,282.955</b>
<b>House Taxation Committee Adjustments</b>				
Coal Trust Interest	(2.107)	(3.227)	(3.345)	(8.679)
Treasury Cash Account Interest	(1.428)	(0.171)	1.366	(0.233)
Individual Income Tax	15.424	-	-	15.424
<b>Total House Adjustments</b>	<b>\$11.889</b>	<b>(\$3.398)</b>	<b>(\$1.979)</b>	<b>\$6.512</b>
<b>Senate Taxation Committee Adjustments</b>				
Individual Income Tax	15.424	-	-	15.424
Oil and Natural Gas Production Tax	-	3.067	6.206	9.273
US Mineral Royalty	-	0.956	1.949	2.905
<b>Total Senate Adjustments</b>	<b>\$15.424</b>	<b>\$4.023</b>	<b>\$8.155</b>	<b>\$27.602</b>
<b>Grand Total All Adjustments</b>	<b>\$27.313</b>	<b>\$0.625</b>	<b>\$6.176</b>	<b>\$34.114</b>
<b>Revised HJR2 Revenue Estimates</b>	<b>\$1,411.952</b>	<b>\$1,429.768</b>	<b>\$1,475.349</b>	<b>\$4,317.069</b>

Figure 1

Figure 2 shows the amended current law general fund estimates by revenue source as contained in HJR 2. Actual fiscal 2004 collections are shown, along with projections for fiscal 2005 through 2007.

House Joint Resolution 2 General Fund Revenue Estimates In Millions								
Source of Revenue	Percent of 2004	Actual Fiscal 2004	Estimated Fiscal 2005	Estimated Fiscal 2006	Estimated Fiscal 2007	Estimated Fiscal 04-05	Estimated Fiscal 06-07	Cumulative % of Total
1 Individual Income Tax	43.82%	\$605.348	\$619.486	\$605.029	\$629.840	\$1,224.834	\$1,234.869	42.51%
2 Property Tax	12.27%	169.531	170.051	175.823	182.663	339.582	358.486	54.85%
3 Corporation Income Tax	4.90%	67.723	66.332	80.621	77.927	134.055	158.548	60.30%
4 Vehicle Tax	6.05%	83.607	80.360	80.140	82.050	163.967	162.190	65.89%
5 Common School Interest and Income	0.00%	-	-	-	-	-	-	65.89%
6 Insurance Tax & License Fees	4.09%	56.533	59.272	62.163	65.220	115.805	127.383	70.27%
7 Coal Trust Interest	2.53%	34.907	33.892	33.563	33.898	68.799	67.461	72.59%
8 US Mineral Royalty	2.08%	28.736	35.837	35.616	37.283	64.573	72.899	75.10%
9 All Other Revenue	2.19%	30.242	28.304	24.734	24.923	58.546	49.657	76.81%
10 Tobacco Settlement	0.21%	2.934	2.871	2.319	2.309	5.805	4.628	76.97%
11 Telecommunications Excise Tax	1.51%	20.890	21.307	21.700	22.101	42.197	43.801	78.48%
12 Video Gambling Tax	3.67%	50.749	52.932	55.304	57.782	103.681	113.086	82.37%
13 Treasury Cash Account Interest	0.46%	6.393	9.174	13.116	14.381	15.567	27.497	83.32%
14 Estate Tax	0.83%	11.431	3.701	1.950	0.939	15.132	2.889	83.42%
15 Oil & Natural Gas Production Tax	2.99%	41.324	58.206	61.565	65.263	99.530	126.828	87.78%
16 Motor Vehicle Fee	2.22%	30.724	31.730	36.770	37.819	62.454	74.589	90.35%
17 Public Institution Reimbursements	1.31%	18.110	16.032	14.900	14.900	34.142	29.800	91.38%
18 Lodging Facility Use Tax	0.67%	9.279	10.113	10.715	11.419	19.392	22.134	92.14%
19 Coal Severance Tax	0.63%	8.643	9.105	8.659	8.841	17.748	17.500	92.74%
20 Liquor Excise & License Tax	0.78%	10.718	11.125	11.535	11.959	21.843	23.494	93.55%
21 Cigarette Tax	2.61%	36.002	34.608	33.193	32.030	70.610	65.223	95.80%
22 Investment License Fee	0.35%	4.834	4.464	4.598	4.736	9.298	9.334	96.12%
23 Lottery Profits	0.59%	8.116	7.273	7.288	7.953	15.389	15.241	96.64%
24 Liquor Profits	0.47%	6.500	6.608	6.854	7.158	13.108	14.012	97.12%
25 Nursing Facilities Fee	0.43%	5.916	5.833	5.793	5.757	11.749	11.550	97.52%
26 Foreign Capital Depository Tax	0.00%	-	-	-	-	-	-	97.52%
27 Electrical Energy Tax	0.34%	4.661	4.295	4.276	4.270	8.956	8.546	97.82%
28 Metalliferous Mines Tax	0.23%	3.232	4.483	5.328	5.533	7.715	10.861	98.19%
29 Highway Patrol Fines	0.30%	4.084	4.104	4.125	4.143	8.188	8.268	98.47%
30 Public Contractors Tax	0.15%	2.120	1.748	3.030	2.872	3.868	5.902	98.68%
31 Wholesale Energy Tax	0.24%	3.293	3.485	3.520	3.555	6.778	7.075	98.92%
32 Tobacco Tax	0.26%	3.562	3.677	3.779	3.847	7.239	7.626	99.18%
33 Driver's License Fee	0.22%	3.021	2.997	3.011	3.018	6.018	6.029	99.39%
34 Rental Car Sales Tax	0.18%	2.486	2.593	2.704	2.820	5.079	5.524	99.58%
35 Railroad Car Tax	0.11%	1.568	1.585	1.574	1.562	3.153	3.136	99.69%
36 Wine Tax	0.10%	1.423	1.436	1.487	1.538	2.859	3.025	99.79%
37 Beer Tax	0.21%	2.897	2.933	2.986	3.039	5.830	6.025	100.00%
38 Telephone License Tax	0.00%	0.029	-	-	-	0.029	-	100.00%
39 Long Range Bond Excess	0.00%	-	-	-	-	-	-	100.00%
Total General Fund	100.00%	<u>\$1,381.565</u>	<u>\$1,411.952</u>	<u>\$1,429.768</u>	<u>\$1,475.348</u>	<u>\$2,793.517</u>	<u>\$2,905.116</u>	100.00%

Figure 2

## REVENUE IMPACTS OF LEGISLATION

Figure 3 shows the general fund revenue impacts of legislation enacted by the Fifty-ninth Legislature. If more than one bill were enacted that impacts a given revenue source, the cumulative impact of the bills is shown for each revenue source.

### Revenue Legislation Impacts of 59th Legislature

#### Total General Fund

In Millions

Source of Revenue	Estimated Fiscal 2005	Estimated Fiscal 2006	Estimated Fiscal 2007	Estimated Fiscal 04-05	Estimated Fiscal 06-07	Estimated 05,06,07
1 Individual Income Tax	(\$4.750)	\$2.149	\$0.220	(\$4.750)	\$2.369	(\$2.381)
2 Property Tax	(0.681)	(2.019)	(2.601)	(0.681)	(4.620)	(5.301)
3 Corporation Income Tax	-	0.527	1.070	-	1.597	1.597
4 Vehicle Tax	-	-	-	-	-	-
5 Common School Interest and Income	-	-	-	-	-	-
6 Insurance Tax & License Fees	-	(0.583)	(0.583)	-	(1.166)	(1.166)
7 Coal Trust Interest	-	(1.352)	(1.608)	-	(2.960)	(2.960)
8 US Mineral Royalty	(8.959)	(8.904)	(9.321)	(8.959)	(18.225)	(27.184)
9 All Other Revenue	-	2.655	4.678	-	7.333	7.333
10 Tobacco Settlement	-	-	-	-	-	-
11 Telecommunications Excise Tax	-	-	-	-	-	-
12 Video Gambling Tax	-	(0.273)	(0.273)	-	(0.546)	(0.546)
13 Treasury Cash Account Interest	-	(0.014)	(0.014)	-	(0.028)	(0.028)
14 Estate Tax	-	-	-	-	-	-
15 Oil & Natural Gas Production Tax	-	(0.373)	(0.305)	-	(0.678)	(0.678)
16 Motor Vehicle Fee	-	(1.741)	(0.859)	-	(2.600)	(2.600)
17 Public Institution Reimbursements	0.050	0.227	0.149	0.050	0.376	0.426
18 Lodging Facility Use Tax	-	-	-	-	-	-
19 Coal Severance Tax	-	(0.193)	(0.197)	-	(0.390)	(0.390)
20 Liquor Excise & License Tax	-	-	-	-	-	-
21 Cigarette Tax	-	(0.124)	(0.240)	-	(0.364)	(0.364)
22 Investment License Fee	-	-	-	-	-	-
23 Lottery Profits	-	0.556	(0.114)	-	0.442	0.442
24 Liquor Profits	-	(0.068)	(0.141)	-	(0.209)	(0.209)
25 Nursing Facilities Fee	0.022	0.058	0.067	0.022	0.125	0.147
26 Foreign Capital Depository Tax	-	-	-	-	-	-
27 Electrical Energy Tax	-	-	-	-	-	-
28 Metalliferous Mines Tax	-	(0.092)	(0.095)	-	(0.187)	(0.187)
29 Highway Patrol Fines	-	0.917	1.181	-	2.098	2.098
30 Public Contractors Tax	-	-	(0.350)	-	(0.350)	(0.350)
31 Wholesale Energy Tax	-	-	-	-	-	-
32 Tobacco Tax	-	-	-	-	-	-
33 Driver's License Fee	(0.039)	(0.227)	(0.226)	(0.039)	(0.453)	(0.492)
34 Rental Car Sales Tax	-	-	-	-	-	-
35 Railroad Car Tax	-	-	-	-	-	-
36 Wine Tax	-	-	-	-	-	-
37 Beer Tax	-	-	-	-	-	-
38 Telephone License Tax	-	-	-	-	-	-
39 Long Range Bond Excess	-	-	-	-	-	-
<b>Total General Fund</b>	<b>(\$14.357)</b>	<b>(\$8.874)</b>	<b>(\$9.562)</b>	<b>(\$14.357)</b>	<b>(\$18.436)</b>	<b>(\$32.793)</b>

Figure 3

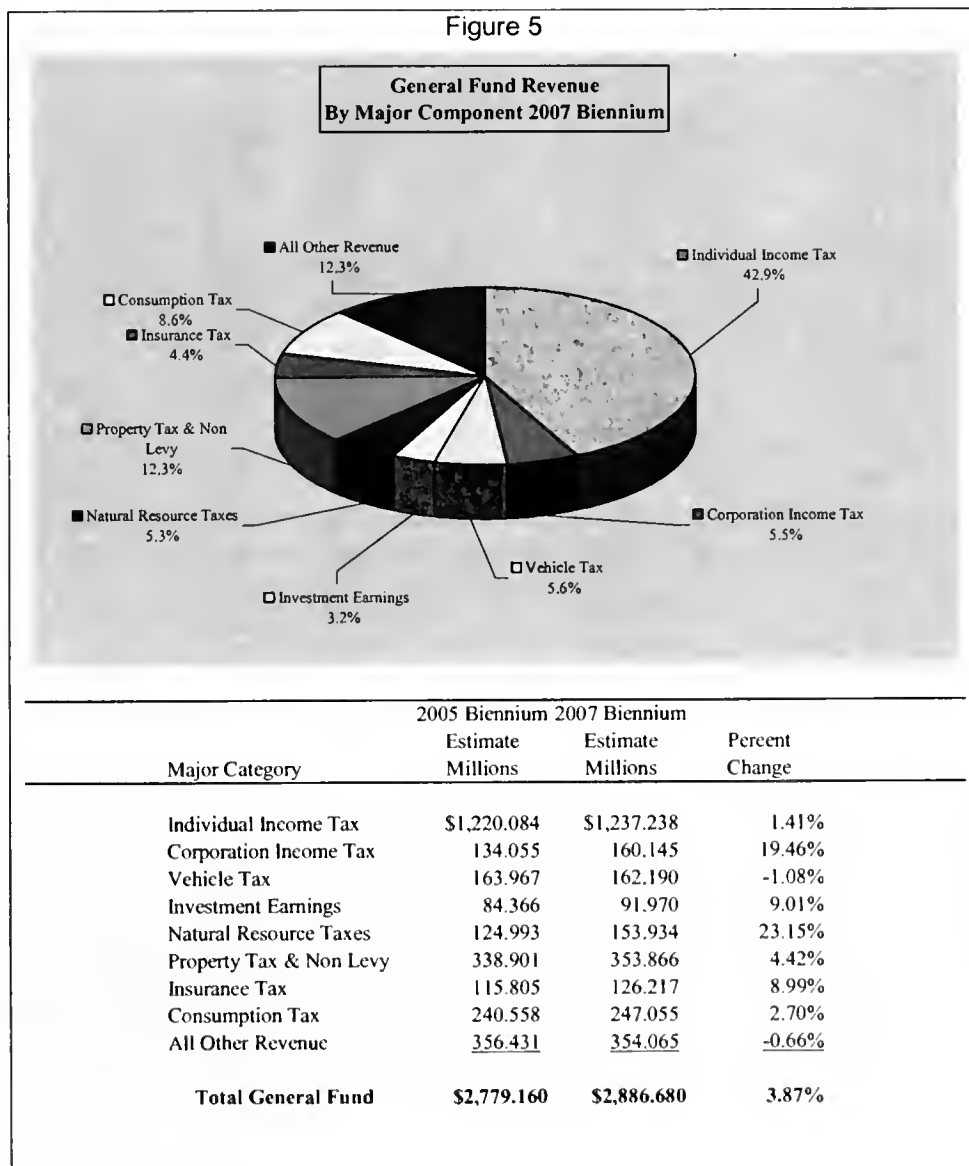
## TOTAL GENERAL FUND REVENUE ESTIMATES

Figure 4 shows the revised total general fund revenue estimates by source which is the sum of HJR 2 estimates and the impacts of all enacted legislation. These revised estimates are used in this volume to determine the overall financial condition of the general fund for the 2005 and 2007 biennia.

House Joint Resolution 2 Plus Legislation Impacts General Fund Revenue Estimates In Millions								
Source of Revenue	Percent of 2004	Actual Fiscal 2004	Estimated Fiscal 2005	Estimated Fiscal 2006	Estimated Fiscal 2007	Estimated Fiscal 04-05	Estimated Fiscal 06-07	Cumulative % of Total
1 Individual Income Tax	43.82%	\$605.348	\$614.736	\$607.178	\$630.060	\$1,220.084	\$1,237.238	42.86%
2 Property Tax	12.27%	169.531	169.370	173.804	180.062	338.901	353.866	55.12%
3 Corporation Income Tax	4.90%	67.723	66.332	81.148	78.997	134.055	160.145	60.67%
4 Vehicle Tax	6.05%	83.607	80.360	80.140	82.050	163.967	162.190	66.29%
5 Common School Interest and Income	0.00%	-	-	-	-	-	-	66.29%
6 Insurance Tax & License Fees	4.09%	56.533	59.272	61.580	64.637	115.805	126.217	70.66%
7 Coal Trust Interest	2.53%	34.907	33.892	32.211	32.290	68.799	64.501	72.89%
8 US Mineral Royalty	2.08%	28.736	26.878	26.712	27.962	55.614	54.674	74.79%
9 All Other Revenue	2.19%	30.242	28.304	27.389	29.601	58.546	56.990	76.76%
10 Tobacco Settlement	0.21%	2.934	2.871	2.319	2.309	5.805	4.628	76.92%
11 Telecommunications Excise Tax	1.51%	20.890	21.307	21.700	22.101	42.197	43.801	78.44%
12 Video Gambling Tax	3.67%	50.749	52.932	55.031	57.509	103.681	112.540	82.34%
13 Treasury Cash Account Interest	0.46%	6.393	9.174	13.102	14.367	15.567	27.469	83.29%
14 Estate Tax	0.83%	11.431	3.701	1.950	0.939	15.132	2.889	83.39%
15 Oil & Natural Gas Production Tax	2.99%	41.324	58.206	61.192	64.958	99.530	126.150	87.76%
16 Motor Vehicle Fee	2.22%	30.724	31.730	35.029	36.960	62.454	71.989	90.25%
17 Public Institution Reimbursements	1.31%	18.110	16.082	15.127	15.049	34.192	30.176	91.30%
18 Lodging Facility Use Tax	0.67%	9.279	10.113	10.715	11.419	19.392	22.134	92.06%
19 Coal Severance Tax	0.63%	8.643	9.105	8.466	8.644	17.748	17.110	92.66%
20 Liquor Excise & License Tax	0.78%	10.718	11.125	11.535	11.959	21.843	23.494	93.47%
21 Cigarette Tax	2.61%	36.002	34.608	33.069	31.790	70.610	64.859	95.72%
22 Investment License Fee	0.35%	4.834	4.464	4.598	4.736	9.298	9.334	96.04%
23 Lottery Profits	0.59%	8.116	7.273	7.844	7.839	15.389	15.683	96.58%
24 Liquor Profits	0.47%	6.500	6.608	6.786	7.017	13.108	13.803	97.06%
25 Nursing Facilities Fee	0.43%	5.916	5.855	5.851	5.824	11.771	11.675	97.47%
26 Foreign Capital Depository Tax	0.00%	-	-	-	-	-	-	97.47%
27 Electrical Energy Tax	0.34%	4.661	4.295	4.276	4.270	8.956	8.546	97.76%
28 Metalliferous Mines Tax	0.23%	3.232	4.483	5.236	5.438	7.715	10.674	98.13%
29 Highway Patrol Fines	0.30%	4.084	4.104	5.042	5.324	8.188	10.366	98.49%
30 Public Contractors Tax	0.15%	2.120	1.748	3.030	2.522	3.868	5.552	98.68%
31 Wholesale Energy Tax	0.24%	3.293	3.485	3.520	3.555	6.778	7.075	98.93%
32 Tobacco Tax	0.26%	3.562	3.677	3.779	3.847	7.239	7.626	99.19%
33 Driver's License Fee	0.22%	3.021	2.958	2.784	2.792	5.979	5.576	99.39%
34 Rental Car Sales Tax	0.18%	2.486	2.593	2.704	2.820	5.079	5.524	99.58%
35 Railroad Car Tax	0.11%	1.568	1.585	1.574	1.562	3.153	3.136	99.69%
36 Wine Tax	0.10%	1.423	1.436	1.487	1.538	2.859	3.025	99.79%
37 Beer Tax	0.21%	2.897	2.933	2.986	3.039	5.830	6.025	100.00%
38 Telephone License Tax	0.00%	0.029	-	-	-	0.029	-	100.00%
39 Long Range Bond Excess	0.00%	-	-	-	-	-	-	100.00%
Total General Fund	100.00%	<u>\$1,381.565</u>	<u>\$1,397.595</u>	<u>\$1,420.894</u>	<u>\$1,465.786</u>	<u>\$2,779.160</u>	<u>\$2,886.680</u>	100.00%

Figure 4

Figure 5 shows the revenue contribution to the general fund account by the most significant revenue components. During the 2007 biennium, over 66 percent of total general fund revenue comes from income, property, and vehicle taxes, while about 3 percent is generated from investment earnings. Natural resource taxes are estimated to produce about 5 percent of total general fund revenue during the 2007 biennium. The information shown in Figure 5 illustrates the significant dependence the state has on income, property, and vehicle taxes to fund general government operations. In addition, Figure 5 shows the general fund will receive an estimated \$92 million in the 2007 biennium from investment earnings. Although these revenues are due to the investment by the state of taxpayer dollars, they can be viewed as taxpayer savings or relief. Without these revenues, the state would either have to cut services, increase other revenues, or do a combination of both.



Total general fund revenues for the 2007 biennium are projected to increase 3.9 percent over the 2005 biennium projections. The comparative change by major revenue category is shown at the bottom of Figure 5. Included in this increase is \$32.8 million of reduced revenue in the 2007 biennium due to the enactment of the legislation shown in Figure 7.

## NON-GENERAL FUND REVENUE ESTIMATES

Figure 6 shows estimates for selected non-general fund revenue for fiscal years 2005, 2006, and 2007 in HJR 2, plus changes made by enacted legislation. These estimates were included because of their importance in the budgeting process.

**House Joint Resolution 2 Plus Legislation Impacts**  
**Non-General Fund Revenue Estimates**  
 In Millions

Source of Revenue	Percent of Total	Actual Fiscal 2004	Estimated Fiscal 2005	Estimated Fiscal 2006	Estimated Fiscal 2007	Estimated Fiscal 04-05	Estimated Fiscal 06-07	Cumulative % of Total
1 Diesel Tax	19.23%	\$63.181	\$65.819	\$68.567	\$71.430	\$129.000	\$139.997	20.68%
2 Federal Forest Receipts	3.80%	12.491	12.654	12.795	12.878	25.145	25.673	24.48%
3 Gasoline Tax	40.46%	132.962	133.577	134.177	134.774	266.539	268.951	64.22%
4 GVW and Other Fees	8.37%	27.500	27.896	28.287	28.732	55.396	57.019	72.64%
5 Resource Indemnity Tax	0.38%	1.251	1.229	1.176	1.323	2.480	2.499	73.01%
6 Arts Trust Interest	0.10%	0.326	0.315	0.315	0.328	0.641	0.643	73.11%
7 Capital Land Grant Interest and Income	0.73%	2.413	0.820	0.939	0.943	3.233	1.882	73.38%
8 Deaf & Blind Interest and Income	0.09%	0.299	0.289	0.282	0.283	0.588	0.565	73.47%
9 Parks Trust Interest	0.35%	1.140	1.080	1.061	1.086	2.220	2.147	73.78%
10 Pine Hills Interest and Income	0.12%	0.394	0.373	0.365	0.366	0.767	0.731	73.89%
11 RIT Trust Interest	2.25%	7.380	6.898	6.626	6.627	14.278	13.253	75.85%
12 TSE Trust Interest	2.54%	8.349	8.337	8.578	9.071	16.686	17.649	78.46%
13 Property Tax: 6 Mill	3.46%	11.374	10.660	10.854	11.090	22.034	21.944	81.70%
14 Property Tax: 9 Mill	0.00%	-	-	-	-	-	-	81.70%
15 Tobacco Trust Interest	0.81%	2.670	2.841	3.301	3.820	5.511	7.121	82.75%
16 Regional Water Trust Interest	0.37%	1.201	1.348	1.553	1.797	2.549	3.350	83.25%
17 Common School Interest and Income	<u>16.94%</u>	<u>55.663</u>	<u>59.004</u>	<u>57.149</u>	<u>56.233</u>	<u>114.667</u>	<u>113.382</u>	<u>100.00%</u>
<b>Total Non-General Fund</b>	<b>100.00%</b>	<b>\$328.594</b>	<b>\$333.140</b>	<b>\$336.025</b>	<b>\$340.781</b>	<b>\$661.734</b>	<b>\$676.806</b>	<b>100.00%</b>

Figure 6

## SUMMARY

A complete summary of each general fund and selected non-general fund revenue source can be found in "Volume 2 – Revenue Estimates". Each summary provides information on the particular source of revenue including a description, the applicable tax or fee rates distribution mechanisms, and other useful information. A legislation impact table (if applicable) is shown summarizing all bills that impact the particular source of revenue. It should be noted that the revenue projection table and graph are based on HJR 2 estimates plus the impacts, if any, of enacted legislation. The corresponding revenue estimate assumption tables reflect only assumptions pertinent to the HJR 2 revenue estimates and have not been updated for the impacts of enacted legislation.

## SUMMARY OF TAX POLICY AND INITIATIVES

Figure 7 shows the revenue impacts of legislation enacted by the Fifty-ninth legislature summarized by bill number. For the three-year period, fiscal 2005 through 2007, total general fund revenues were decreased by \$32.8 million. SB 212 (US mineral royalties) accounts for 84 percent of the decreased general fund revenue. Two bills, HB 749 (nursing home bed tax) and SB 120 (extend hospital bed tax) account for over half of the total fund impact.

Impact of Enacted Legislation By Bill Number  
General Fund and Total Funds

Bill Number and Short Description	General Fund Impact Fiscal 2005	General Fund Impact Fiscal 2006	General Fund Impact Fiscal 2007	General Fund Impact 05,06,07	Total Funds Impact 05,06,07
HB0002 General appropriations act	\$ -	\$ 1,191,907	\$ 1,843,395	\$ 3,035,302	\$ 3,035,302
HB0005 Long-range building appropriations	-	(470,000)	(470,000)	(940,000)	(940,000)
HB0006 Renewable resource grants	-	-	-	-	600,000
HB0007 Reclamation and development grants	-	-	-	-	457,116
HB0008 Renewable resource bonds and loans	-	-	-	-	7,236,264
HB0009 Cultural and aesthetic grant appropriations	-	-	-	-	4,323,877
HB0014 Authorize auction of mountain goat license	-	-	-	-	19,000
HB0017 Revise treatment of donations to historical society	-	-	-	-	-
HB0018 Extend duration of state-tribal economic development commission	-	-	-	-	2,000,000
HB0022 Funding for water adjudication	-	-	-	-	6,200,000
HB0034 Revise nonresident turkey tag laws	-	-	-	-	108,420
HB0035 Highway patrol officer salaries and retention	-	-	-	-	9,940,725
HB0053 Conform Board of Horseracing laws to GASB	-	-	-	-	-
HB0060 Indoor cleanup standards for methamphetamine labs	-	7,500	7,500	15,000	15,000
HB0071 Revise license fees on certain mortgage brokers	-	-	-	-	(30,000)
HB0077 Increase septic pumper application review fees	-	-	-	-	54,250
HB0079 Make the Habitat Montana program permanent	-	-	-	-	7,200,000
HB0083 Revise school district tuition payments	-	-	336,000	336,000	336,000
HB0087 Transfer fleet vehicle registration to Department of Justice	-	-	-	-	-
HB0099 Penalty for driving when license suspended or revoked for DUI or test refusal	-	712,000	949,000	1,661,000	1,661,000
HB0102 Statutory appropriation for highway patrol officers' retirement	-	600,000	-	600,000	600,000
HB0109 Transfer capitol complex maintenance to department of administration	-	-	-	-	-
HB0113 Require DNA samples from all felons	-	-	-	-	409,480
HB0119 Make permanent county recreational boating safety grants, boating advisory encl	-	-	-	-	40,000
HB0140 Revise laws on consumer credit counseling	-	-	-	-	5,000
HB0158 Revise and clarify income tax withholding	(4,750,000)	-	-	(4,750,000)	(4,750,000)
HB0159 Revise unemployment insurance laws	-	-	-	-	17,250
HB0160 Revise building code administration, enforcement provisions	-	-	-	-	100,750
HB0161 Revise certain workers' compensation laws	-	-	-	-	26,430
HB0170 Clarify fund transfers for certain vehicle taxes and fees	-	-	-	-	1,495,498
HB0172 Revise certain resident & nonresident hunting and fishing license fees	-	-	-	-	4,146,734
HB0173 Allow use of search and rescue surcharge in fiscal year after deposit	-	-	-	-	200,000
HB0174 Revise private pond licensing laws	-	-	-	-	25,830
HB0192 Revise commercial driver's license, driver's license, and cmv laws	(38,595)	(231,565)	(231,565)	(501,725)	(501,739)
HB0201 Fund natural resource damage litigation	-	(13,706)	(27,324)	(41,030)	(41,030)
HB0203 Clarify responsibility of boards and department of labor and industry	-	-	-	-	9,500
HB0214 Authorize nonresident youth big game combination license	-	-	-	-	187,500
HB0235 Enhance hunter management laws--PL/PW recommendations	-	-	-	-	746,232
HB0249 Economic development trust fund	-	(1,338,000)	(1,581,000)	(2,919,000)	17,081,000
HB0272 Half-priced hunting licenses to certain disabled veterans	-	-	-	-	5,830
HB0274 Revise feed registration and licensing laws	-	-	-	-	196,250
HB0301 Revise use of Lewis & Clark license plate funds	-	-	-	-	75,147
HB0316 Revise fees charged by public service commission	-	(6,728)	(6,728)	(13,456)	-
HB0348 Revise youth access to alcohol and provide for keg registration	-	12,500	12,500	25,000	25,000

Figure 7

Impact of Enacted Legislation By Bill Number					
General Fund and Total Funds					
Bill Number and Short Description	General Fund	General Fund	General Fund	General Fund	Total Funds
	Impact	Impact	Impact	Impact	Impact
	Fiscal 2005	Fiscal 2006	Fiscal 2007	05,06,07	05,06,07
HB0370 Revise strip and underground mine reclamation act	-	(200)	(300)	(500)	(500)
HB0374 Increase drunk driving penalty when person under 16 was in vehicle	-	73,069	97,425	170,494	170,494
HB0377 Enforce license plate violations by nonresidents working in Montana	-	8,438	11,250	19,688	19,688
HB0379 Fund Zortman-Landusky mine reclamation	-	-	-	-	2,400,000
HB0421 Nonresident child of resident hunting and fishing licenses	-	-	-	-	(26,946)
HB0425 Transfer consumer protection functions from D of Admin to Department of Justice	-	-	-	-	-
HB0428 Revise laws related to enforcement of strip and underground mine reclamation	-	-	-	-	35,000
HB0439 Disallow double credit for foreign income tax payment	-	-	369,000	369,000	369,000
HB0447 Increase state employee pay	-	(172,424)	(463,340)	(635,764)	(1,110,283)
HB0453 Administrative penalties for certain environmental law violations	-	600	1,200	1,800	4,800
HB0463 Increase and extend tax credit for postconsumer glass use	-	-	-	-	(4,400)
HB0470 Applicants to pay for certain environmental impact statements	-	-	-	-	500,000
HB0476 Increase marriage lic. fees for funding dom. & sex. violence victims' services	-	-	-	-	186,966
HB0482 Revise allocation of funds to coal tax shared account	-	(192,772)	(196,835)	(389,607)	-
HB0484 Mobile meat processor licensing and inspection	-	-	-	-	88,904
HB0514 Increase restitution for illegal taking of grizzly bear	-	4,278	4,278	8,556	8,556
HB0528 Year round beer and wine license for west Yellowstone airport	-	400	400	800	1,600
HB0535 Revise taxation of stripper well production	-	(374,404)	(305,992)	(680,396)	(1,502,294)
HB0536 Generally revise court automation surcharge	-	1,605,336	1,605,336	3,210,672	3,210,672
HB0541 Allow motor homes 11 years old and older to be permanently registered	-	38,988	32,246	71,234	71,234
HB0552 Change asset test for children for medicaid	-	-	-	-	5,881,419
HB0584 Promote growth of film and other media in Montana	-	(369,360)	(369,360)	(738,720)	(703,550)
HB0592 Standardize penalty and interest calculations for taxes	-	542,997	70,044	613,041	613,041
HB0628 Registration and board requirements for certain alternative schools and programs	-	-	-	-	44,000
HB0643 Eliminate smoking in enclosed public places	-	(147,384)	(284,355)	(431,739)	(875,606)
HB0667 Purchasing pools, tax credit for health insurance	-	-	-	-	2,570,312
HB0671 Generally revise motor vehicle law	-	943,300	1,890,100	2,833,400	3,602,575
HB0698 Warm water fishery enhancement program	-	-	-	-	46,868
HB0700 Revise allocation and use of metal mines license tax	-	(92,000)	(95,000)	(187,000)	-
HB0704 Time requirements for certain DPHHS actions involving long-term care facilities	-	-	-	-	404,586
HB0726 Revise law on community corrections to allow day reporting	-	-	-	-	12,500
HB0740 Appropriate money for asbestos-disease related programs	-	-	-	-	175,000
HB0749 Revise nursing home bed tax	-	32,700	55,767	88,467	32,229,918
HB0757 Revolving loan account for rehabilitation of railroad branch lines	-	-	-	-	3,444,000
HB0758 Oil, gas, and coal natural resource account fund	-	-	-	-	-
HB0761 Life insurance premium reimbursement for members of national guard/reserve	-	-	-	-	660,000
HB0772 Pay travel expenses for catastrophically injured workers	-	-	-	-	25,000
HB0802 Eliminate annual permit surcharge fee for video gambling machines	-	(273,275)	(273,275)	(546,550)	(546,550)
SB0001 Authorize living will indicator on driver's license	-	4,459	5,945	10,404	15,721
SB0048 Stop class 8 property tax reduction	-	(171,716)	(456,864)	(628,580)	(671,079)
SB0064 Revise contractor registration laws	-	-	-	-	129,756
SB0067 Increase fees for marriage license and declaration of marriage w/o solemnization	-	(1,798)	(1,798)	(3,596)	(3,596)
SB0074 Clarify eligibility of land for valuation as nonqualified agricultural land	-	-	52,022	52,022	55,308
SB0077 Remove sunset on hunting access enhancement & hunter management programs	-	-	-	-	10,205,021

Figure 7 (continued)



**Impact of Enacted Legislation By Bill Number  
General Fund and Total Funds**

Bill Number and Short Description	General Fund Impact Fiscal 2005	General Fund Impact Fiscal 2006	General Fund Impact Fiscal 2007	General Fund Impact 05,06,07	Total Funds Impact 05,06,07
SB0080 Prohibit open alcohol containers in vehicles	-	122,625	122,625	245,250	245,250
SB0082 Revise definition of and utilization fee on ICF/DD	72,269	142,787	141,759	356,815	615,415
SB0084 Generally revise gambling laws	-	5,000	5,000	10,000	63,000
SB0085 Income tax checkoff for renal dialysis	-	-	-	-	24,000
SB0087 Clarify appeal and payment of protested taxes for centrally assessed property	(680,750)	(1,361,500)	(1,361,500)	(3,403,750)	2,800,000
SB0091 Allocation of special wild buffalo licenses to Montana Indian tribes	-	-	-	-	(3,750)
SB0098 Montana land information act	-	-	-	-	2,100,000
SB0108 Provide additional judge for 18th judicial district	-	-	-	-	1,640,000
SB0110 Medicaid redesign: HIFA and 1115 demonstration waiver authority	-	-	-	-	14,520,000
SB0115 Equitable taxation of wind energy facilities	-	-	(632,082)	(632,082)	(672,003)
SB0120 Extend hospital tax on inpatient bed days	-	-	-	-	86,431,478
SB0121 Revise laws governing state hospital charges for criminally convicted	-	109,397	18,864	128,261	128,261
SB0123 Revise contractor recordkeeping for special fuels	-	500	500	1,000	1,000
SB0126 Revise boating registration laws	-	-	-	-	146,588
SB0130 Revise microbusiness development program	-	(13,507)	(13,507)	(27,014)	-
SB0133 Capital formation act for venture capital	-	-	-	-	65,259
SB0137 License tattoo and body-piercing businesses	-	-	-	-	34,750
SB0143 Authorize contingent transfer and appropriation from orphan share account	-	-	-	-	600,000
SB0146 Statewide public defender system	-	-	-	-	80,000
SB0167 Technology districts -- tax increment financing	-	-	-	-	-
SB0208 Increase conviction charge to fund victim services	-	34,178	34,178	68,356	68,356
SB0212 Revise allocation and distribution of federal mineral leasing funds	(8,959,250)	(8,904,000)	(9,321,000)	(27,184,250)	-
SB0213 Revise recycling laws	-	-	(221,437)	(221,437)	(221,437)
SB0248 Revise penalty for no motor vehicle insurance	-	21,000	28,000	49,000	49,000
SB0274 Revise coverage of mortgage broker law	-	-	-	-	139,350
SB0275 Revising voluntary genetics program; increasing program fees	-	(582,956)	(582,956)	(1,165,912)	499,676
SB0276 Revise taxes on bentonite	-	(244,534)	(241,139)	(485,673)	1,579,570
SB0282 Revise racial profiling law	-	-	-	-	11,520
SB0285 Organize and simplify motor vehicle laws	-	(2,743,892)	(2,809,745)	(5,553,637)	-
SB0296 Alternative method for assessing, taxing certain land parcels	-	-	(52,178)	(52,178)	(55,457)
SB0298 Clarify fish production at & planting of fish from Fort Peck warm water hatchery	-	-	-	-	70,000
SB0320 Facilitate establishment of concentrated animal feeding operations	-	-	-	-	(81,000)
SB0323 Carryforward of contractor's gross receipts tax -- corporate income	-	-	(350,000)	(350,000)	(350,000)
SB0324 Prescription drug assistance and discount programs	-	-	-	-	4,177,440
SB0339 Provide low-cost sports licenses for active military personnel	-	-	-	-	(27,709)
SB0340 Builder allowed tax credit for residential geothermal systems	-	-	(45,000)	(45,000)	(45,000)
SB0359 Revise statutes related to school district enrollment	-	(5,600)	(5,600)	(11,200)	(11,200)
SB0370 Detention officers included in sheriffs' retirement system	-	-	-	-	1,267,520
SB0406 Fund civil legal assistance for indigent victims of domestic violence	-	-	-	-	54,900
SB0412 Provide for regulation of elevator contractors, mechanics, and inspectors	-	-	-	-	99,840
SB0433 Medicaid pilot program for individuals with developmental disabilities	-	-	-	-	32,000
SB0442 Repeal POINTS replacement fee	-	2,623,970	3,144,202	5,768,172	-
SB0459 Transfer motor carrier safety assistance program from justice to transportation	-	-	-	-	500,633
SB0461 Wolf collaring near livestock or population center	-	-	-	-	50,000
SB0486 Revise viatical settlement law	-	-	-	-	20,000
<b>Total Impact of Legislation Listed Above</b>	<b>\$ (14,356,326)</b>	<b>\$ (8,873,392)</b>	<b>\$ (9,561,344)</b>	<b>\$ (32,791,062)</b>	<b>\$ 239,999,528</b>

Figure 7 (continued)

## **BILLS AFFECTING GENERAL FUND AND SELECTED NON-GENERAL FUND REVENUE**

A complete summary of each general fund and selected non-general fund revenue source can be found in "Volume II - Revenue Estimates". Each summary provides information on the particular source of revenue including a description, the applicable tax or fee rates, distribution mechanisms, and other useful information. A legislation impact figure (if applicable) is shown summarizing all bills that impact the particular source of revenue. It should be noted that the revenue projection figure and graph in "Volume II – Revenue Estimates" are based on HJR 2 estimates plus the impacts, if any, of enacted legislation. The corresponding revenue estimate assumption figures reflect only assumptions pertinent to the HJR 2 revenue estimates and have not been updated for the impacts of enacted legislation.

The following is a brief summary of each bill that impacts general fund and selected non-general fund sources estimated by the legislature. Included is the particular revenue sources affected.

House Bill 2 – Affected general fund revenue sources: All Other Revenue, Common School Interest and Income, Corporation Income Tax, Individual Income Tax, Liquor Profits, and Lottery Profits. In certain cases, the amount of money appropriated may impact the amount of general fund revenue from various sources. Although these revenue amounts are estimated prior to the session based on present law appropriations requested in the Executive Budget and finalized in HJ 2, final appropriations set by the legislature may differ and, thus, may affect revenue.

House Bill 5 - Affected general fund revenue source: All Other Revenue. The amount of money appropriated from certain accounts inversely impacts the amount of general fund revenue from various sources. Although these revenue amounts are estimated prior to the session based on present law appropriations requested in the Executive Budget and finalized in HJ 2, final appropriations set by the legislature may differ. The legislature appropriated \$940,000 for the biennium from the cigarette tax revenue account (DPHHS), thus reducing the amount of the estimated fund balance over \$2.0 million that is transferred to the general fund at the end of each fiscal year by \$470,000. The legislation is effective on passage and approval.

House Bill 9 – Affected non-general fund revenue source: Cultural Trust Interest. This legislation increases the interest earned on the cultural trust \$411,377 in the 2007 biennium by increasing the trust corpus with a one-time general fund transfer of \$3,412,500. The transfer of funds replaced dollars spent from the trust in the 1997 purchase of Virginia and Nevada Cities. HB 9 directs the transfer to take place at the beginning of FY 2006 so that new interest will be earned throughout the entire 2007 biennium. Revenues from the cultural trust increase \$200,280 in FY 2006 and \$211,097 in FY 2007. The legislation is effective July 1, 2005.

House Bill 35 – Affected general fund and non-general fund revenue source: Motor Vehicle Fee. An alternative pay and classification plan is created for the Montana highway patrol. The registration fee for certain light vehicles, trailers, off-highway vehicles, heavy trucks, trucks and busses, logging trucks, motor homes, motorcycles and quadricycles, trailers and semi trailers, travel trailers, and recreational vehicles increases \$5. The increase does not apply to snowmobiles, watercraft, and pole trailers. Revenue from the increased fee is deposited to a state special revenue fund and is statutorily appropriated to the Department of Justice to fund: 1) an increase in the base salary of highway patrol positions existing on June 30, 2006; 2) the base salary and associated operating costs for new positions created after June 30, 2006; and 3) biennial salary increases after June 30, 2006 for highway

patrol officers. Coordination with HB 447 reduces FY 2007 state special revenue appropriations in HB 447 by \$299,311. The legislation also exempts authorized positions in the Montana highway patrol from vacancy savings. The registration fee increase provides \$3,313,590 additional state special revenue in FY 2006 and \$6,627,135 in FY 2007. The legislation is effective on passage and approval, except for the fee increase and statutory appropriation that are effective January 1, 2006.

House Bill 60 – Affected general fund revenue source: All Other Revenue. Fees set to cover the costs training, testing and certification in relation to cleaning up methamphetamine labs are expected to increase general fund revenue \$7,500 each year. The legislation is effective October 1, 2005.

House Bill 83 – Affected general fund revenue source: Property Tax - 55 mill. Under previous law, county superintendents paid K-12 tuition for a child who is placed in licensed foster care or group homes outside the student's district of residence by the state or a court. Tuition payments were deducted from countywide elementary or high school equalization accounts by the county before the money was remitted to the state. Under HB 83, the Office of Public Instruction (OPI) makes payments to the school district of attendance. Districts submit a claim (out-of-district attendance agreement) to OPI at the end of the year of attendance. OPI makes these tuition payments with a general fund appropriation in the year following attendance rather than from a deduction of 55 mill revenue. Thus, 55 mill general fund revenue increases by \$336,000 per year beginning in FY 2007. The legislation is effective July 1, 2005.

House Bill 99 – Affected general fund revenue source: Highway Patrol Fines. Fines increase from a maximum of \$500 to a maximum of \$2,000 for driving with a suspended or revoked license if the suspension or revocation was for: 1) driving under the influence; 2) driving with an excessive alcohol content; or 3) refusing to take a test for alcohol or drugs requested by a peace officer. The increased fines increase general fund revenue by \$712,000 in FY 2006 and \$949,000 in FY 2007. The legislation is effective October 1, 2005.

House Bill 102 – Affected general fund revenue sources: Driver's License Fee, All Other Revenue. Funding for the Montana highway patrol officers' retirement pension trust fund is revised. A general fund statutory appropriation is established to pay the state's contribution to the pension trust fund equal to 10.18 percent of total compensation paid to members. Previously, the following portions of driver's licenses had been earmarked for this purpose and a language appropriation provided in HB 2 to pay the money to the pension trust fund: 1) 22.3 percent of each driver's license fee; and 2) 25 percent of each duplicate driver's license fee.

In addition, HB 102 establishes a general fund statutory appropriation to pay supplemental benefits for certain retirees. Previously, the following portions motor vehicle registration fees had been deposited to the general fund and earmarked to be paid to the pension trust fund: 1) \$1.25 - motorcycle and quadricycle; 2) \$1.25 - trailer, pole trailer, and semi trailer; and 3) \$2.00 - light vehicles. In addition, money for supplemental benefits had also been deposited to the pension trust fund as a transfer of general fund revenue based on \$0.25 for each registered vehicle (with a few exceptions).

Due to an unintended consequence of coordination language between multiple bills affecting motor vehicle and driver license fees, revenue from the percentages of each driver's license fee earmarked for the pension trust fund were not de-earmarked to the general fund and will continue to be deposited to the state special revenue fund. Therefore, there is no fiscal impact to this revenue source. Estimated amounts are \$989,000 in FY 2006 and \$992,000 in FY 2007.

The legislation also directs that the fund balance in the Highway Patrol Clearing account be transferred to the general fund on July 1, 2005. Money in the account that, under prior law, had been

used to transfer to the Highway Patrol Retirement trust fund is estimated to be \$600,000. Beginning FY 2006, the legislation provides a general fund statutory appropriation for the same purpose. The legislation is effective July 1, 2005.

House Bill 158 – Affected general fund revenue source: Individual Income Tax. Beginning January 1, 2005, the schedules by which employers remit taxes withheld from their employees change. Under previous law, an employer whose total liability for state income tax withholding during the preceding look back period was less than \$1,200 was required to remit on a quarterly schedule. The legislation allows, but does not require, these employers to remit on an annual schedule. The impact is a one-time revenue reduction as employers who would have remitted in FY 2005 will now remit in FY 2006. The general fund revenue reduction in FY 2005 is expected to be \$4,750,000. The legislation is effective on passage and approval and applies to wages paid after December 31, 2004.

House Bill 192 - Affected general fund revenue source: Driver's License Fee. The legislation changes the re-licensing period for commercial driver's licenses from eight years to five years and combines the annual fees for the commercial driver's license and basic driver's license into a single annual fee of \$10 for the interstate commercial license and \$8.50 for the intrastate commercial license. The amount of annual license fees each licensee pays does not change. However, because the total paid to reissue a commercial license for a five-year period is less than that for an eight-year period, commercial driver's license revenues will be less for five years after enactment of HB 192. Distribution of revenue to the general fund and various state special revenue accounts are adjusted so most of the reduction is to general fund revenue - \$38,595 in FY 2005, \$231,565 in FY 2006 and \$231,565 in FY 2007; and state special revenue is reduced by a few dollars. The licensing period change is effective on passage and approval. The fee and distribution changes are effective July 1, 2005.

House Bill 201 – Affected general fund revenue source: Coal Trust Interest. The Department of Justice is appropriated the unexpended amount from the \$650,000 of loan proceeds appropriated by the 2003 legislature for the 2005 biennium from the coal severance tax permanent fund. The unexpended amount is estimated to be \$440,000. The purpose of the loan and appropriation is to conduct the natural resource damage assessment and litigation and to pursue Montana's remaining natural resource damage claims and any appeals against the Atlantic Richfield Company. Because the removal of the money from the trust results in a smaller invested balance, the resulting loss in transfers of trust interest earnings to the general fund is expected to be \$13,706 in FY 2006 and \$27,324 in FY 2007. If any reimbursements of the money spent are received, they must be deposited in the coal severance tax permanent fund. The appropriation is effective July 1, 2005.

House Bill 249 – Affected general fund and non-general fund revenue source: Coal Trust Interest. Beginning FY 2006, the 25 percent of remaining coal severance tax revenue (after deposits, if any, in the coal tax bond fund and the school bond contingency loan fund) that previously had been deposited in the coal severance tax permanent fund (12.5% of total revenue), is now deposited in the new Big Sky Economic Development fund within the coal trust. On July 1, 2005, \$20.0 million of fund balance in the permanent trust fund is transferred to the Big Sky Economic Development fund. Interest earnings from this new fund are statutorily appropriated to the Department of Commerce for grants and loans to local governments for economic development projects and to certified regional development corporations. Money not spent for administration must be used: 1) 75 percent to local governments for job creation efforts; and 2) 25 percent to certified regional development corporations and economic development organizations. The elimination of all deposits to the permanent fund and the one-time \$20.0 million reduction in fund balance result in a loss in transfers of trust interest earnings to the general fund of

\$1,338,000 in FY 2006 and \$1,581,000 in FY 2007. State special revenue increases by the same amounts. The legislation is effective July 1, 2005.

House Bill 316 – Affected general fund revenue source: All Other Revenue. Application and permit fees for regulated transportation carriers that had been deposited to the general fund are de-earmarked to the Public Service Commission's state special revenue fund, resulting in a general fund loss of \$6,728 each year. The legislation is effective July 1, 2005.

House Bill 348 – Affected general fund revenue source: All Other Revenue. The legislation requires a person who sells kegs of beer to a consumer to be licensed and to attach identifying information about the buyer to the keg. It also provides a maximum penalty of \$500 for failing to attach the information or for removing or defacing it. After the 50/50 split of fine revenue with the county, the general fund is expected to receive \$12,500 each year in additional fines. The legislation is effective October 1, 2005.

House Bill 370 – Affected general fund revenue source: All Other Revenue. Prior to enactment of the legislation, filing fees were required for various permit applications under the Montana Strip and Underground Mine Reclamation Act and the revenue was deposited to the general fund. The legislation removes the fee requirements for a general fund revenue loss of \$200 in FY 2006 and \$300 in FY 2007. The legislation is effective on passage and approval.

House Bill 374 – Affected general fund revenue source: Highway Patrol Fines. The fine increases from not less than \$300 or more than \$1,000 to not less than \$600 or more than \$2,000 for driving under the influence if one or more passengers under 16 years of age were in the vehicle at the time of the offense. Increased fines increase general fund revenue by \$73,069 in FY 2006 and \$97,425 in FY 2007. The legislation is effective October 1, 2005.

House Bill 377 – Affected general fund revenue source: Highway Patrol Fines. The fine for operating an out-of-state motor vehicle, semi trailer, or pole trailer without proper registration or license plates increases from not less than \$10 or more than \$50 to \$300. Increased fines increase general fund revenue by \$8,438 in FY 2006 and \$11,250 in FY 2007. The legislation is effective October 1, 2005.

House Bill 439 – Affected general fund revenue source: Individual Income Tax. Under previous law, Montana residents were allowed a tax credit against individual income taxes for taxes paid to other states or foreign countries. Under HB 439, Montana residents are not allowed to take a credit against state individual income taxes for taxes paid to foreign countries to the extent that a deduction or credit for the taxes imposed by the foreign country was claimed for federal income tax purposes. The bill applies to tax years beginning after December 31, 2005 and so impacts returns only in FY 2007. General fund income tax revenue is expected to increase \$339,000 in FY 2007 and each year thereafter.

House Bill 447 – Affected general fund and non-general fund revenue sources: All Other Revenue, Common School Interest and Income, Liquor Profits, and Lottery Profits. Money to pay for salary and benefit increases for state employees is appropriated in the legislation. The amount of money appropriated from certain accounts inversely impacts the amount of revenue from various sources. Although these revenue amounts are estimated prior to the session based on present law appropriations requested in the Executive Budget and finalized in HJ 2, final appropriations set by the legislature, such as those in HB 447, may differ and, thus, may affect revenue.

House Bill 453 – Affected general fund revenue source: All Other Revenue. The legislation provides for administrative enforcement of certain laws pertaining to solid waste, underground storage tanks, junk vehicles, and subdivisions. Administrative penalties are expected to increase general fund revenues by \$600 in FY 2006 and \$1,200 in FY 2007 and increase state special revenue by \$1,000 in FY 2006 and \$2,000 in FY 2007. The legislation is effective on passage and approval.

House Bill 482 – Affected general fund and non-general fund revenue source: Coal Severance Tax. The legislation, as coordinated with House Bill 758, revises the distribution of coal severance tax revenue to the state special revenue shared coal tax account. The distribution to this account is increased by 0.61 percent (to 5.46%) and distribution to the general fund is reduced by the same amount for a loss of \$192,772 in FY 2006 and \$196,835 in FY 2007. State special revenue increases by the same amounts. The legislation is effective July 1, 2005.

House Bill 514 – Affected general fund revenue source: All Other Revenue. The restitution for illegally taking a grizzly bear was increased from \$2,000 to \$8,000. Restitution payments up to a total of \$60,000 are expected to be deposited to the Department of Fish, Wildlife and Parks' state special revenue fund. Any amounts over \$60,000 are deposited to the general fund. Additional restitution payments are expected to increase general fund revenue an average of \$4,278 each year. The legislation is effective on passage and approval.

House Bill 528 – Affected general fund revenue source: All Other Revenue. The legislation requires the Yellowstone Airport to pay the annual \$400 liquor license fee. This fee will be deposited to the liquor enterprise fund and, at the end of the fiscal year, transferred to the general fund. The legislation is effective on passage and approval.

House Bill 535 – Affected general fund and non-general fund revenue source: Oil & Natural Gas Production Tax. A new tax category is created out of the "stripper well exemption" category called "stripper well bonus" which is defined as being production from a stripper well that produces three barrels a day or less. If the price of west Texas intermediate crude oil is \$38 a barrel or greater, the working interest share of pre-1999 well oil categorized as "stripper well exemption" and "stripper well bonus" production is taxed at the rate of 6.0 percent. Previously the rate had been 12.5 percent. If the price of west Texas intermediate crude oil falls below \$38 a barrel, the tax rate for both categories remain at the current rate of 0.5 percent. The tax rate reduction results in a general fund loss of \$374,404 in FY 2006 and \$305,992 in FY 2007. State special revenue is reduced by \$452,269 in FY 2006 and \$369,629 in FY 2007. Most of the reduction in state special revenue is a reduction in the statutorily appropriated distribution to counties of \$411,684 in FY 2006 and \$336,459 in FY 2007. The legislation is effective July 1, 2005 and applies to oil produced and sold from July 1, 2005.

House Bill 536 – Affected general fund revenue source: All Other Revenue. Under previous law, the \$10 user surcharge for court automation, which had been deposited in the state special revenue fund, was to terminate June 30, 2005. The legislation extends the termination date to June 30, 2009 and provides for deposit of the revenue to the general fund for an increase of \$1,605,336 each year. The legislation is effective June 28, 2005.

House Bill 541 – Affected general fund revenue source: Motor Vehicle Fee. Motor homes 11 years or older may be permanently registered. In coordination with Senate Bill 285, the registration fee is \$237.50 plus five times the personalized license plate fee if applicable. If the title is transferred, the

new owner must pay all applicable fees. General fund revenue is expected to increase \$38,988 in FY 2006 and \$32,246 in FY 2007. The legislation is effective January 1, 2006.

**House Bill 584** – Affected general fund revenue sources: Corporation Income Tax, Individual Income Tax. This legislation creates two new credits that may be claimed against the individual income and corporation license taxes for businesses that make film and media productions in Montana. The first credit, an employment production tax credit, is equal to 12 percent of the first \$50,000 or less of actual compensation paid to each Montana resident employed in connection with the state-certified production during the tax year. The second credit, a qualified expenditure credit, is equal to 8 percent of the total qualified expenditures incurred in connection with the state-certified production during the tax year. Both credits begin in the 2005 tax year. The credits terminate after January 1, 2010. To claim the credit, the taxpayer must submit paperwork to the Department of Revenue. For this reason, an application fee is charged of either \$500 for companies that compensate Montana residents less than or equal to \$30,000 in a tax year or a \$75 fee for each Montana resident employed when total compensation is greater than \$30,000. The fee revenue, estimated to be \$17,585 annually, is deposited in a state special revenue account. The legislation is effective on passage and approval and the tax credits apply to tax years beginning January 1, 2005.

**House Bill 592** – Affected general fund revenue sources: Corporation Income Tax, Individual Income Tax, and Oil & Natural Gas Production Tax. The legislation revises the method used to determine penalty and interest on overdue income taxes, corporate taxes, withholding taxes, oil and natural gas taxes, and coal severance taxes. The revenue effects and details of the fiscal impacts on the other revenue sources are shown in the respective revenue source section. Figure 8 summarizes the changes.

Figure 8			
HB 592 - Changes in Penalties and Interest Rates			
Penalty Provisions Apply to Individual Income, Corporate and Withholding Taxpayers, Oil and Gas Production Taxes and Coal Severance Taxes			
Type of Penalty/Interest	Previous Law Amount	HB 592 Amount	Effective Date
Late Pay Penalty Rate	1.5 % per month on unpaid balance not to exceed 18% of taxes due from time of notification	1.2% per month on unpaid balance not to exceed 12% of taxes due from time of tax due	January 1, 2007
Purposeful Late Pay Penalty	lesser of 25% of amount due or \$200	Not less than \$1,000 and not more than \$10,000	January 1, 2007
Interest - Individual Income Tax	12 % per Year	Rate is 8% or rate based on IRS Code 26 computed from due date but updated each 4th quarter, whichever is greater	January 1, 2007
Time Window in Which Penalty and Interest is Calculated	From the time of notice	From the time tax is due	July 1, 2005

The full impact of all provisions will not be realized until FY 2008 when an \$878,004 loss in all impacted general fund revenue sources will be realized.

**House Bill 643** – Affected general fund and non-general fund revenue sources: All Other Revenue, Cigarette Tax. The legislation prohibits smoking in all public schools and in all places where the public is free to enter. Bars are excluded from the provisions until September 30, 2009. The prohibition is expected to reduce cigarette consumption and the associated tax revenues by 0.75 percent annually. Provisions of the bill require that buildings owned or operated by a political subdivision be “smoke-free” by July 1, 2006. Consequently, reductions in FY 2006 are expected to be half the annual reduction and the full effects of the state revenue reduction will not occur until FY 2007. State special revenue



collections are reduced \$144,348 in FY 2006 and \$278,493 in FY 2007. Capital project revenue is reduced \$7,176 in FY 2006 and \$13,845 in FY 2007. General fund revenue is reduced \$124,476 in fiscal 2006 and \$240,157 in FY 2007. The legislation is effective October 1, 2005.

**House Bill 667** – Affected general fund revenue sources: All Other Revenue, Individual Income Tax. The legislation provides for funding a new nonprofit entity known as the small business health insurance pool. The small business health insurance pool provides funding to cover all or part of the costs of group health insurance for eligible small businesses. Eligible small businesses earn tax credits against individual income or corporation license tax liabilities for the provision of health insurance for eligible employees. For those taxpayers and businesses that receive assistance in paying for group health insurance premiums through tax credits, the general fund is reimbursed for the loss of tax revenue by appropriations to the State Auditor's Office from the state special health and Medicaid initiatives account to fully offset the amount of tax credits claimed. The tax credits are refundable credits - taxpayers and eligible small businesses may receive a refund of any credit amount in excess of actual tax liability owed, or may receive a refund of the entire amount of the credit if no liability is owed. The refundable portion of tax credits constitutes taxable income in the year in which the refund is received. However, HB 667 amends adjusted gross income to provide that the refundable portion of any tax credit received is not included in income for state tax purposes (it is still included as income for federal income tax purposes). The legislation is expected to reduce general fund income tax revenue \$1,200,000 in FY 2006 and \$3,976,330 in FY 2007. These amounts are reimbursed to the general fund from the health and Medicaid initiatives state special revenue account. There is no net effect on the general fund. The legislation is effective July 1, 2005 and applies to tax years beginning after December 31, 2005.

**House Bill 671** – Affected general fund and non-general fund revenue source: Motor Vehicle Fee. The legislation revises motor vehicle statutes to clarify and streamline the administration of motor vehicle regulations, registrations, and associated fees. New fees of \$3 and \$8 are established for residents and nonresidents, respectively, who obtain temporary registration permits. Revenue from the fees is deposited to the new "motor vehicle electronic commerce operating account" in the enterprise fund. Money in the account is non-budgeted and is to be used by the Department of Justice to pay costs of operating, maintaining and enhancing electronic commerce applications. The legislative changes and associated fiscal impacts are summarized in Figure 9 below. The new enterprise fund is effective July 1, 2005 and applicable sections of the legislation are effective January 1, 2006.

Figure 9

## Fiscal Impacts of House Bill 671

Legislative Changes	General Fund		State Special		Enterprise Fund	
	Fiscal 2006	Fiscal 2007	Fiscal 2006	Fiscal 2007	Fiscal 2006	Fiscal 2007
Eliminate \$10 fee for manufactured home title	(\$5,250)	(\$7,000)	(\$5,250)	(\$7,000)	-	-
New \$3 temporary registration permit - resident	-	-	-	-	202,500	405,000
New \$8 temporary registration permit - nonresident	-	-	-	-	60,000	120,000
Eliminate plate transfer registration fee exemption	700,000	1,400,000	-	-	-	-
Eliminate prorating of registration fees	450,000	900,000	-	-	-	-
Eliminate collection of back taxes for unregistered vehicle	(210,000)	(420,000)	-	-	-	-
Eliminate fleet vehicle \$7.50 registration fee (DOT)	(1,350)	(2,700)	(2,025)	(4,050)	-	-
Fleet vehicles subject to \$22 heavy vehicle registration fee	9,900	19,800	-	-	-	-
New \$5 fee for special motorcycle license plates - to counties	-	-	-	-	-	-
<b>Total</b>	<b>\$943,300</b>	<b>\$1,890,100</b>	<b>(\$7,275)</b>	<b>(\$11,050)</b>	<b>\$262,500</b>	<b>\$525,000</b>

**House Bill 700** – Affected general fund and non-general fund revenue source: Metalliferous Mines Tax. The distribution of the tax revenue to counties that experience fiscal and economic impacts due to



mining is increased from 25 percent of total collections to 26 percent. The revenue is statutorily appropriated. The general fund distribution is decreased from 58 percent to 57 percent for a loss of \$92,000 in FY 2006 and \$95,000 in FY 2007. State special revenue increases by like amounts. The legislation is effective July 1, 2005.

House Bill 749 – Affected general fund and non-general fund revenue sources: Nursing Facilities Fee, Public Institution Reimbursements. The legislation increases the nursing facility bed tax by \$1.75 in FY 2006 to \$7.05 per day, and by \$3.05 in FY 2007 to \$8.30 per day. Along with increases to general fund revenue, revenue deposited to the state special revenue stabilization account increases \$31,298 in FY 2006 and \$53,655 in FY 2007. The total increase in state special revenue is estimated to be \$3,531,298 in FY 2006 and \$6,053,655 in FY 2007.

House Bill 756 – Affected general fund revenue sources: Corporation Tax, Individual Income Tax. The legislation creates two tax credits:

- A tax credit is allowed against individual income tax or corporate license tax for investment in depreciable property in Montana to crush oilseed crops for purposes of biodiesel production. The amount of the credit is 15 percent of the cost of the property up to a total of \$500,000 for property investment in a facility. The credit must be taken in the year of purchase and must be claimed in the tax year the facility begins processing oilseed or manufacturing a product from oilseed. If the facility ceases operation within 5 years, the credit is subject to recapture. In order to qualify for this credit, the facility must be operating before January 1, 2010.
- A tax credit is allowed against individual income tax or corporate license tax for the cost of constructing and equipping a facility in Montana to be used for biodiesel production. The taxpayer is entitled to claim a credit only for the year the facility begins production. The amount of the credit for investment in depreciable property is 15 percent of the cost of the facility or the cost of property installed in the facility. The taxpayer is not allowed to carry any part of the credit forward to succeeding years. If the facility ceases operation within 5 years, the credit is subject to recapture. In order to qualify for this credit, the facility must be operating before January 1, 2010.

HB 756 bill has no revenue impact in the 2007 biennium, but may in future years. In addition, HB 756 offers an incentive paid for with a statutory appropriation for biodiesel production. Incentives are payable to producers for increases in annual biodiesel production for the first three years. The incentive is 10 cents per gallon for all biodiesel produced the first year and 10 cents per gallon for increases in the second and third years. Incentives are available only on production for which the fuel tax has been paid. Incentives will be paid on a fiscal year basis to biodiesel producers.

House Bill 758 – Affected general fund revenue sources: Coal Severance Tax, Oil & Natural Gas Production Tax. The legislation removes the statutory allowance for coal severance tax revenue in the state special revenue shared coal tax account to be appropriated to the Coal Board to address local impacts. A separate distribution of 2.90 percent to the newly created oil, gas and coal natural resource state special revenue account is established and the percentage distribution to the shared coal tax account is reduced by 2.90 percent. There is no change in revenues, only a revenue distribution change of \$916,458 in FY 2006 and \$935,772 in FY 2007 from the shared coal tax account to the oil, gas and coal natural resource account.

The legislation also distributes a portion of oil and natural gas tax revenue to the new account based on the unused portion of the P & L tax authority set by the Board of Oil and Gas Conservation. The total tax authority between the two cannot exceed 0.3 percent and the base rate for the oil, gas and

coal natural resource account is 0.08 percent except when the privilege and license tax rate: 1) exceeds 0.22 percent, then the oil, gas and coal natural resource account rate is 0.3 percent less the amount of the rate adopted by the Board; or 2) is less than 0.18 percent, then the oil, gas and coal natural resource account rate is 0.26 percent less the amount of the rate adopted by the Board (see the chart below). State special revenue from oil and natural gas production tax revenue deposited to the account is estimated to be \$1,205,959 in FY 2006 and \$1,272,219 in FY 2007. Revenue deposited to the Board of Oil and Gas Conservation state special revenue account is reduced by the same amounts for no net change in state special revenue. Money from the oil and natural gas production tax revenue deposited in the oil, gas and coal natural resource account is statutorily appropriated to the Department of Revenue for distribution to applicable counties, cities, and towns based on statutory percentages and allocations. The legislation is effective July 1, 2005 and applies to production occurring from that date.

House Bill 761 – Affected general fund revenue source: All Other Revenue. An account is established from which reimbursements of life insurance premiums are paid to members of the Montana National Guard. HB 761 transfers \$660,000 of general fund to the account from FY 2005-2007. Any unexpended or unencumbered balance remaining in the account at the end of a fiscal year reverts to the general fund. No reversions are anticipated. The legislation is effective on passage and approval and applies to premiums paid after the legislation is effective.

House Bill 776 – Affected general fund revenue sources: Corporation Income Tax, Individual Income Tax. The legislation entitles qualifying taxpayers to a tax credit of 15 percent of the cost of equipment for investments in biodiesel storage and blending equipment to offset their corporate license and individual income tax liability. The maximum credit for special fuel distributors is \$52,500 in the first year of biodiesel blending. The maximum credit is \$7,500 for an owner or operator of a motor fuel outlet in the first year of biodiesel blending. The blended biodiesel product must be at least 2 percent biodiesel (B-100). This credit may be recaptured by the Department of Revenue for two reasons: 1) if sales of B-100 are not at least 2 percent of total diesel sales; and 2) if the taxpayer ceases operations within 5 years of claiming the credit. HB 776 has no revenue impact in the 2007 biennium, but may in future years. The credit applies retroactively to tax years beginning after December 31, 2004. The legislation is effective on passage and approval.

House Bill 790 – Affected general fund revenue source: Oil & Natural Gas Production Tax. The legislation does not change the amount of oil and natural gas production tax revenue, but it does change the distribution of tax revenue. In the 2007 biennium, the Legislative Services Division is allocated up to \$50,000 of the tax revenue collected from the P & L tax. The money is to be used to study split estates of property between mineral owners and surface owners related to oil and gas development and coal bed methane reclamation and bonding. HB 790 appropriates \$50,000 of state special revenue to the Legislative Services Division for use by the Environmental Quality Council. The legislation is effective on passage and approval and terminates September 15, 2006.

House Bill 802 – Affected general fund revenue source: Video Gambling Tax. The legislation eliminates the \$10 annual permit surcharge for each video gambling machine on premises with fewer than 20 machines and the \$20 annual permit surcharge for each video gambling machine on premises with 20 machines for a general fund loss of \$273,275 each year. The legislation is effective on passage and approval and applies to permit fees charged on or after June 30, 2005.

Senate Bill 1 – Affected general fund revenue and non-general fund source: Driver's License Fee. The legislation authorizes the Department of Justice to place on driver's licenses a living will indicator. It is

expected that certain people will request a duplicate license before their driver's license needs to be renewed in order to activate this indicator. The increase in duplicate license fees is expected to increase general fund \$4,459 in FY 2006 and \$5,945 in FY 2007. State special revenue is expected to increase \$2,279 in FY 2006 and \$3,038 in FY 2007. The legislation is effective October 1, 2005.

**Senate Bill 48** – Affected general fund and non-general fund revenue sources: Property Tax – 55 mill, 40 mill, and 6 mill. Under previous law, if in any year inflation adjusted wage and salary growth were to exceed 2.85 percent, the tax rate on class 8 business equipment property would have been phased down to 0 percent over the following three years. The legislation eliminates this possibility by removing this “trigger” from law. SB 48 also increases the threshold amount of class 8 property that an entity may own and be exempt from property taxation - from \$5,000 of market value to \$20,000. The portion of the legislation that eliminates the “trigger” is effective on passage and approval. The increase in the class 8 exemption amount is effective beginning January 1, 2006. Total revenue impacts are shown in Figure 10.

Figure 10 SB 48 Revenue Impacts		
Revenue Type	Fiscal 2006	Fiscal 2007
General Fund 40 Mills	(\$72,301)	(\$192,364)
General Fund 55 Mills	(99,415)	(264,500)
State Special 6 Mills	(11,610)	(30,889)

**Senate Bill 67** – Affected general fund revenue source: All Other Revenue. The legislation increases the fees for a marriage license and filing a declaration of marriage without solemnization from \$30 to \$40 with revenue from the increase deposited in the county district court fund or to the county general fund. In addition, the legislation eliminates the \$0.25 fee for recording a marriage license, the revenue from which had been deposited in the state general fund, for a loss of \$1,798 each year. The legislation is effective July 1, 2005.

**Senate Bill 74** – Affected general fund and non-general fund revenue sources: Property Tax – 55 mill, 40 mill, and 6 mill. Under previous law, certain parcels of land between 20 and 160 acres were classified under class 3 as non-qualified agricultural land. Non-qualified agricultural land is assigned a value of \$41.97 per acre and is taxed at seven times the class 3 tax rate (which is the same as the class 4 tax rate). Some of these parcels lie in subdivisions with covenants prohibiting agricultural use. The legislation requires that acres in subdivisions with covenants prohibiting agricultural use are not defined as non-qualifying agricultural land and must be valued and taxed as class 4 property. The act is effective for tax years beginning January 1, 2006 and thus affects FY 2007 revenues. Total revenue impacts are shown in Figure 11.

Figure 11 SB 74 Revenue Impacts		
Revenue Type	Fiscal 2006	Fiscal 2007
General Fund 40 Mills	-	\$21,904
General Fund 55 Mills	-	30,118
State Special 6 Mills	-	3,286

**Senate Bill 80** – Affected general fund revenue source: Highway Patrol Fines. The legislation enacts a new offense for knowingly possessing an open alcoholic beverage container in the passenger area of a motor vehicle on a highway. The fine for violating this statute cannot exceed \$100. The new fine is expected to increase general fund revenue by \$122,625 each year. The legislation is effective October 1, 2005.

**Senate Bill 82** – Affected general fund and non-general fund revenue sources: Nursing Facilities Fee, Public Institution Reimbursement. The legislation expands the definition of an intermediate care facility to include facilities for the mentally retarded and increases the bed tax rate for those facilities from five percent to six percent. Because SB 82 includes retroactive applicability, the changes affect FY 2005 revenue. Along with increases to general fund revenue, revenue deposited in the state special revenue

stabilization account increases \$51,720 in FY 2005 and \$103,440 in both fiscal 2006 and 2007. The legislation is effective on passage and approval.

**Senate Bill 84** – Affected general fund and non-general fund revenue sources: All Other Revenue, Video Gambling Tax. The legislation provides procedures for the forfeiture of seized evidence in gambling cases, enables the Department of Justice to pursue a violation even if the gambling license or permit has lapsed, revises the bingo law, and allows for additional gambling games to be played on video machines. The department estimates that the legislation will result in the licensing of more video gambling machine test facilities for an increase in state special fee revenue of \$2,000 in FY 2006 and \$1,000 in FY 2007. The expiration of a gambling license or permit no longer prevents the Department of Justice from pursuing a violation. It is expected that additional penalties of \$5,000 each year will be deposited to the general fund. The legislation is effective July 1, 2005.

**Senate Bill 87** – Affected general fund and non-general fund revenue sources: Property Tax – 55 mill, 40 mill, and 6 mill. The legislation creates a new state special revenue account for centrally assessed protested tax payments. Under previous law, these payments were all deposited in the general fund. SB 87 directs the Department of Revenue to distribute protested taxes as follows:

- 50 percent of the state 95 mill levy portion to the general fund;
- 50 percent of the state 95 mill levy portion to the centrally assessed property tax state special revenue account;
- 50 percent of the state 6-mill levy portion to the general fund; and
- 50 percent of the state 6-mill levy portion to the centrally assessed property tax state special revenue account.

The legislation also requires that half the protested taxes already collected from tax disputes in fiscal 2003 and fiscal 2004 be transferred from the general fund and the 6 mill state special revenue account to the new state special account. SB 87 is effective on passage and approval. Thus, there will be a FY 2005 fiscal impact from protested taxes expected to be received May 2005. Figure 12 shows the total impacts on each state property tax account.

Figure 12

## SB 87 Revenue Impacts

Revenue Type	One-Time Transfer	On-going Revenue		
	Fiscal 2005	Fiscal 2005	Fiscal 2006	Fiscal 2007
General Fund 40 Mills	(\$1,108,211)	(\$286,632)	(\$573,263)	(\$573,263)
General Fund 55 Mills	(1,523,789)	(394,118)	(788,237)	(788,237)
State Special 6 mills	(168,000)	(43,500)	(87,000)	(87,000)
Protested Taxes SSR	2,800,000	724,250	1,448,500	1,448,500

**Senate Bill 115** – Affected general fund and non-general fund revenue sources: Property Tax – 55 mill, 40 mill, and 6 mill. The legislation creates a new class of property, class 14, made exclusively of wind generation property. The tax rate for this new class is 3 percent of market value. Previously, this property was taxed at the class 13 rate of 6 percent. The new class is also eligible for new and expanding industry treatment and allows local tax abatement at the option of local taxing jurisdictions. The legislation applies to tax years beginning January 1, 2005.

**Senate Bill 121** – Affected general fund revenue source: Public Institution Reimbursements. The legislation allows the Department of Public Health and Human Services to bill forensic placement patients for the cost of their care, increasing general fund revenues by \$128,261 in the 2007 biennium. Under the previous law, residents to the Montana State Hospital who were under any provision of a criminal statute or were enrolled in the Montana chemical dependency center, or those who were financially responsible for the residents were provided limited liability for the costs of care. The

legislation removes these limitations. As a result, general fund revenue increases \$109,397 in FY 2006 and \$18,864 in FY 2007. The legislation is effective July 1, 2005.

Senate Bill 123 – Affected general fund revenue source: Highway Patrol Fines. The legislation changes the civil penalty for using dye special fuel to operate a motor vehicle upon the public roads and highways. Prior to the change, first time violators were subject to a fine not to exceed \$100, and subsequent violators faced a fine not less than \$100 or more than \$1,000. With revisions enacted in SB 123, the Department of Transportation is required, after giving notice and holding a hearing if requested, to impose a civil penalty not to exceed \$1,000 for the first violation or \$5,000 for the second offense. The changes are expected to increase general fund revenue \$500 each year. The legislation is effective October 1, 2005.

Senate Bill 130 – Affected general fund revenue source: Treasury Cash Account. The legislation requires interest earnings from balances in the micro business development loan account and the micro business finance program administrative account to be deposited in the latter account. Because the earnings had previously been deposited to the general fund, general fund revenues decrease \$13,507 each year.

Senate Bill 167 – Affected general fund revenue sources: Property Tax – 55 mill, 40 mill. The legislation allows for the creation of technology districts that are funded in part through tax increment financing. The technology district would have to be recognized before January 1, 2006 in order to have a fiscal impact in the 2007 biennium. None is expected to be so. The legislation is effective on passage and approval.

Senate Bill 208 – Affected general fund revenue source: All Other Revenue. The charge imposed by courts of original jurisdictions on certain convictions for a misdemeanor or felony increases from \$25 to \$50. Revenue from the charge is used at the local level to pay expenses of a victim and witness advocate program. If the county, city, or town does not have a victim and witness advocate program, \$49 from the charge is deposited in the state general fund for an increase of \$34,178 each year. The legislation is effective October 1, 2005.

Senate Bill 212 – Affected general fund and non-general fund revenue source: US Mineral Royalty. Prior to enacting SB 212, all US mineral royalty revenue was deposited to the general fund and on August 15<sup>th</sup>, 25 percent of the revenue was transferred out of the general fund to the state special revenue mineral impact account. This legislation earmarks 25 percent of the revenue directly to the mineral impact account. Money in the account is statutorily appropriated for distribution to eligible counties. Because of the earmarking, general fund revenue is reduced \$8,959,250 in fiscal 2005, \$8,904,000 in FY 2006 and \$9,321,000 in FY 2007 and state special revenue increases by the same amounts. However, transfers in the same amounts out of the general fund are eliminated for a net zero impact to the general fund balance. The legislation is effective July 1, 2005.

Senate Bill 213 – Affected general fund revenue sources: Corporation Income Tax, Individual Income Tax. The legislation extends the termination date of the recycling credit and the recycling deduction. Both the tax credit for investment in collection and processing property and the tax deduction for the purchase of recyclable material would have terminated on December 31, 2005, but they now remain in effect until December 31, 2011. Under the previous law, the credit and deduction can be claimed through the 2005 tax year. Consequently, there is no general fund impact in FY 2006. The legislation is effective July 1, 2005.

**Senate Bill 248** – Affected general fund revenue source: Motor Vehicle Fee. In addition to revising the penalty for driving without mandatory motor vehicle liability insurance, the legislation authorized the Department of Justice to issue a restricted registration receipt once proof of compliance is established for those with two or three convictions. The receipt allows the operation of the vehicle only for employment purposes during a set time period. Revenue from the restricted registration receipt fee, as set by the department, increases general fund revenue \$21,000 in FY 2006 and \$28,000 in FY 2007. The legislation is effective July 1, 2005.

**Senate Bill 275** – Affected general fund and non-general fund revenue source: Insurance Tax & License Fees. The legislation changes the name of the voluntary genetics program administered by the Department of Public Health and Human Services to the statewide genetics program. For each Montana resident insured under any disability or health insurance policy, the fee paid by the insurer is increased from \$0.70 to \$1.00, but only from October 1, 2005 through June 30, 2007. After that time, the fee is \$0.70. The legislation earmarks the fee revenue that was previously deposited to the general fund to a state special revenue fund for a general fund loss of \$582,856 each year of the 2007 biennium and an increase in state special revenue of \$832,794 each year of the biennium. The legislation is effective October 1, 2005.

**Senate Bill 276** – Affected general fund and non-general fund revenue sources: Property Tax – 55 mill, 40 mill 6 mill; All Other Revenue. Under previous law, net proceeds of miscellaneous mines, including bentonite mines, were subject to property taxation. Net proceeds for a mine were calculated by subtracting statutorily defined production costs from the gross value of the product of the mine. The taxable value was defined as 100% of the net proceeds. The tax was calculated by multiplying the consolidated mill levy of all taxing jurisdictions in which the mine is located by the taxable value. The

consolidated mill levy included all local mills and the statewide 101 education mills. The royalties that were paid to state and federal government entities and to Indian tribes were exempt from property taxation. All other royalties were taxed on the same basis as the net proceeds of the mines. The taxable value was defined as 100% of the taxable royalties. The tax was calculated by multiplying the consolidated mill levy by the taxable value. This tax was assessed to the royalty owners. SB 276 replaces the net proceeds tax on bentonite with a production tax.

Bentonite production is taxed on the wet ton. A wet ton of bentonite is a ton of bentonite measured before crushing and drying. The new tax rates are described in Figure 13.

Figure 13 Senate Bill 276 Bentonite Production Tax Schedule		
Production Per Mine	Increment	Tax Per Ton
First 20,000 Wet Tons	20,000	\$0.00
20,001 to 100,000 Tons	80,000	\$1.56
100,001 to 250,000 Tons	150,000	\$1.50
250,001 to 500,000 Tons	250,000	\$1.40
500,001 to 1,000,000 Tons	500,000	\$1.25
Excess of 1,000,000 Tons	Unlimited	\$1.00

For mines that first begin producing bentonite after December 31, 2004:

- 1.3% is distributed to the state special revenue fund to replace the state university 6 mills;
- 20.75% is distributed to the state general fund to replace the county equalization 95 mills; and
- 77.95% is distributed to the producing county to be distributed in proportion to current fiscal year mill levies, excepting the 101 statewide education mills.

For mines that produced bentonite before January 1, 2005 and on production occurring in CY 2005:

- 2.33% is distributed to the state special revenue fund to replace the state university 6 mills;
- 18.14% is distributed to the state general fund to replace the county equalization 95 mills;
- 3.35% is distributed to Carbon County to be distributed in proportion to mill levies in the taxing jurisdictions in which production occurs, excepting the 101 statewide education mills; and

- 76.18% is distributed to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, excepting the 101 statewide education mills.

For mines that produced bentonite before January 1, 2005 and on production occurring in CY 2006:

- 90% of the tax is distributed as described in 2 above; and
- 10% of the tax is distributed as described in 1 above.

Beyond production in CY 2006, the distribution is a sliding scale mixture of that provided in sections 1 and 2 above.

Under previous law, FY 2006 revenue would have been derived from taxes on CY 2004 production and FY 2007 revenue would have been derived from taxes on CY 2005 production. Under SB 276, FY 2006 revenue is derived from taxes on CY 2005 production and FY 2007 revenue is derived from taxes on CY 2006 production. Taxable royalties are taxed at a rate of 15%. The tax is distributed in the same manner as the tax on production. The impact of SB 276 on state revenues is shown in Figure 14.

Figure 14 SB 276 Revenue Impacts		
Revenue Type	Fiscal 2006	Fiscal 2007
General Fund 40 Mills	(\$202,299)	(\$202,299)
General Fund 55 Mills	(278,162)	(278,162)
General Fund All Other	235,927	239,322
General Fund Total	(\$244,534)	(\$241,139)
State Special 6 Mills	(30,345)	(30,345)
SSR to 6 Mill Account	30,304	28,964
SSR to Counties	1,034,360	1,032,305
SSR Total	\$1,034,319	\$1,030,924

**Senate Bill 285** – Affected general fund and non-general fund revenue source: Motor Vehicle Fee. The legislation revises and simplifies motor vehicle fees by: 1) combining fees; 2) moving definitions to one section of law; 3) assigning fee collection to the Department of Justice; and 4) basing the general fund transfers of motor vehicle fees to various agency account on a percentage of general fund revenue collections rather than on vehicle counts from previous years. In addition, SB 285 earmarks revenue from the voluntary \$4.00 vehicle registration fee for state parks that under previous law was deposited to the general fund (and then transferred to the state special revenue fund) to the state special revenue fund. This reduces general fund revenue \$2,743,892 in FY 2006 and \$2,809,745 in FY 2007 and reduces transfers out of the general fund by the same amounts. State special revenue increases by the same amounts. The changes to the general fund transfers are effective July 1, 2005. The rest of the legislation is effective January 1, 2006.

**Senate Bill 296** – Affected general fund and non-general fund revenue sources: Property Tax – 55 mill, 40 mill 6 mill. Land that is under one ownership and is greater than 20 acres in size, but less than 160 acres in size, could become eligible for agricultural land classification contingent on meeting additional requirements provided in this legislation. Typically, these parcels of land are called “non-qualified agricultural land”. Under SB 296, the 20 to 160 acre parcels of land that do not meet the minimum \$1,500 in agricultural related income produced by the land, may qualify as agricultural land if the owner: 1) submits proof that 51% of the owner's annual income is derived from agricultural production; or 2) the property taxes are paid by a family corporation, family partnership, sole proprietorship or family trust involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production or; the owner is a shareholder, partner, owner, or member of a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production. The legislation is effective July 1, 2005 and the new ownership criteria are effective in tax year 2006, thus impacting FY 2007 revenues. The revenue impacts are shown in Figure 15.

Figure 15 SB 296 Revenue Impacts		
Revenue Type	Fiscal 2005	Fiscal 2006
General Fund 40 Mills	-	(\$21,970)
General Fund 55 Mills	-	(30,208)
State Special 6 Mills	-	(3,280)



Senate Bill 323 – Affected general fund revenue source: Public Contractors Tax. The legislation allows public contractors to carry forward the public contractor's gross receipts tax (PCGR) credit against individual income taxes or corporation license taxes for up to five succeeding years, reducing the PCGR tax collections by \$350,000 in the 2007 biennium. Under the previous law, public contractors were allowed to offset these taxes paid during the tax year with gross receipts taxes paid in the same year. The legislation allows any unused credit to be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax year. The new carry forward provision reduces general fund tax collections beginning FY 2007 by \$350,000. The legislation is effective on passage and approval.

Senate Bill 340 – Affected general fund revenue source: Individual Income Tax. A credit of up to \$1,500 is allowed against income tax liability for the installation of geothermal heating systems in new residential construction. General fund revenue is reduced \$45,000 in FY 2007. The legislation is effective January 1, 2006 and applies to tax years beginning after December 31, 2005.

Senate Bill 359 - Affected general fund revenue source: Property Tax – 55 million under the previous law, the state paid tuition for a student who was placed by a state agency or court in foster care or a group home in a school district other than the child's district of residence. Once a state-placed student turned 18 years old, the student became a resident of the district where he lived and so the state no longer paid tuition. Under SB 359, the state continues to pay tuition for the remainder of the school year when a student turns 18 in the middle of a school year rather than stopping tuition when the student turns 18. Tuition is paid by allowing counties to subtract tuition payments from the 55 mill payment to the state. It is estimated that \$5,600 more in tuition will be paid each year than under the previous law, reducing general fund 55 mill revenues by the same amounts. The bill is effective July 1, 2005 and applies to school budgets for the school fiscal year beginning on or after July 1, 2006.

Senate Bill 442 – Affected general fund and non-general fund revenue source: Individual Income Tax. The legislation eliminates the provisions of SB 271 enacted by the 2003 legislature that authorized the Department of Revenue to borrow \$17.0 million from the Board of Investments to replace the POINTS computer system and to deduct an administrative fee from selected general fund revenue sources (to be determined by the department) to repay the loan. Under law prior to SB 442, the repayment amounts were deducted from individual income tax revenue and deposited in a state special revenue account. The legislation becomes effective only if another bill passes that provides for full repayment of the loan. HB 745 (the supplemental bill) passed containing an appropriation for this purpose. General fund revenue increases \$2,623,970 in FY 2006 and \$3,144,202 in FY 2007 and state special revenue decreases by like amounts. The legislation is effective July 1, 2005.





## APPROPRIATIONS SUMMARY

### INTRODUCTION

This section summarizes the major legislative appropriations for ongoing costs of operating state government in HB 2 and HB 447. HB 2 (the general appropriations act) is the primary vehicle used by the legislature to provide these appropriations. HB 447 is the pay plan bill. In the 2007 biennium, total general fund appropriated through HB 2 and HB 447 is \$2.6 billion, while total funds are \$7.0 billion. These totals represent 88 percent of general fund and almost 92 percent of total funds appropriated by the 2005 Legislature. The legislature also appropriates funds through statutory appropriations and other legislation. For a discussion of statutory appropriations see page 148 of this volume. Other appropriations legislation is discussed on page 119 of this volume.

### APPROPRIATIONS HIGHLIGHTS

The legislature provided total general fund of \$2.6 billion and total funds of \$7.0 billion for the operations of state government in the 2007 biennium. Figure 1 shows the allocation of general fund by program area of government. Education, corrections, and human services consume 87.1 percent of this total, compared to 88.7 percent in the 2005 biennium.

Figure 1

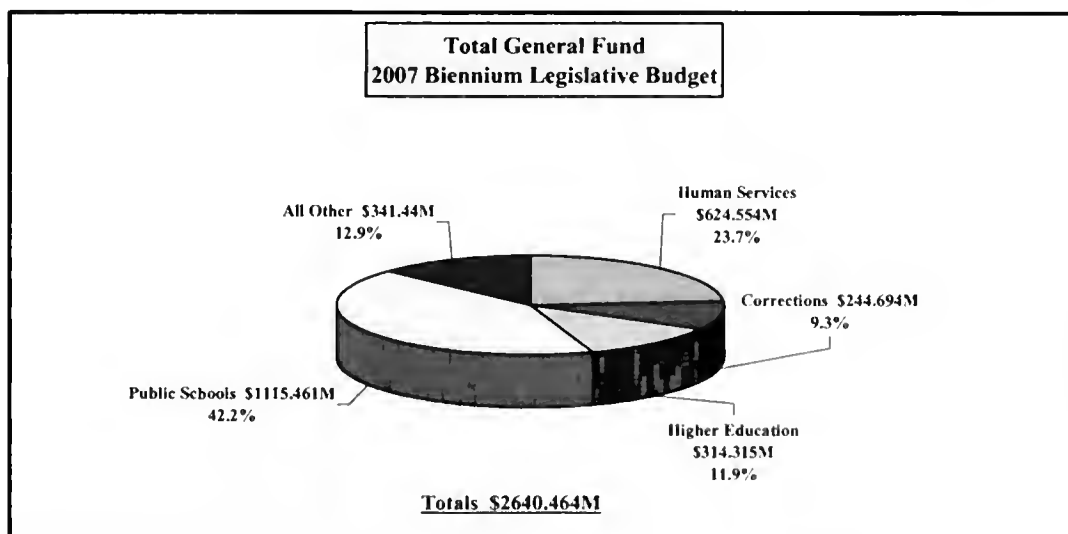
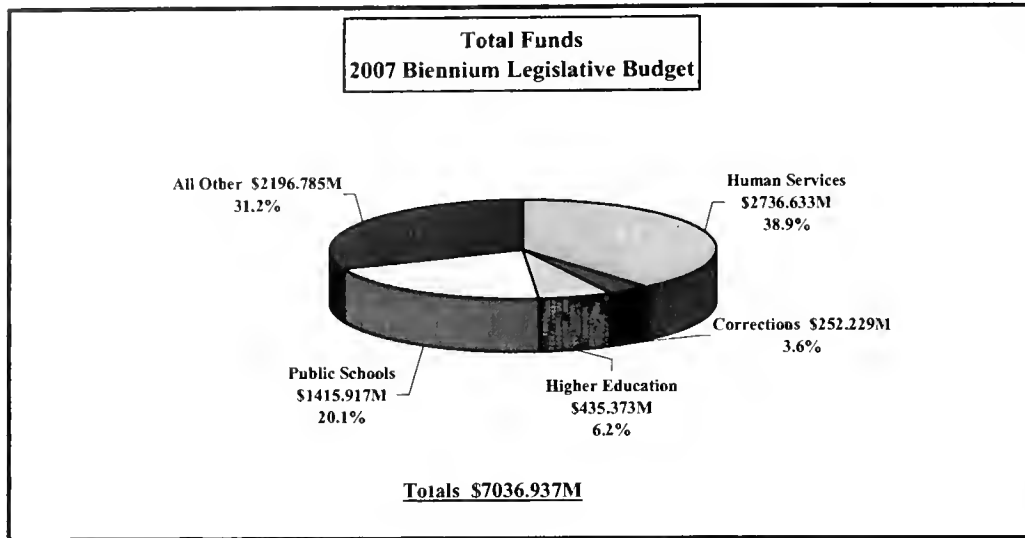


Figure 2 shows the allocation by program area of total funds. "All Other" includes the Department of Transportation. Because of the significant contribution of federal funds and use of non-general fund in transportation and human services, those two functions consume almost 55 percent of the total.

Figure 2



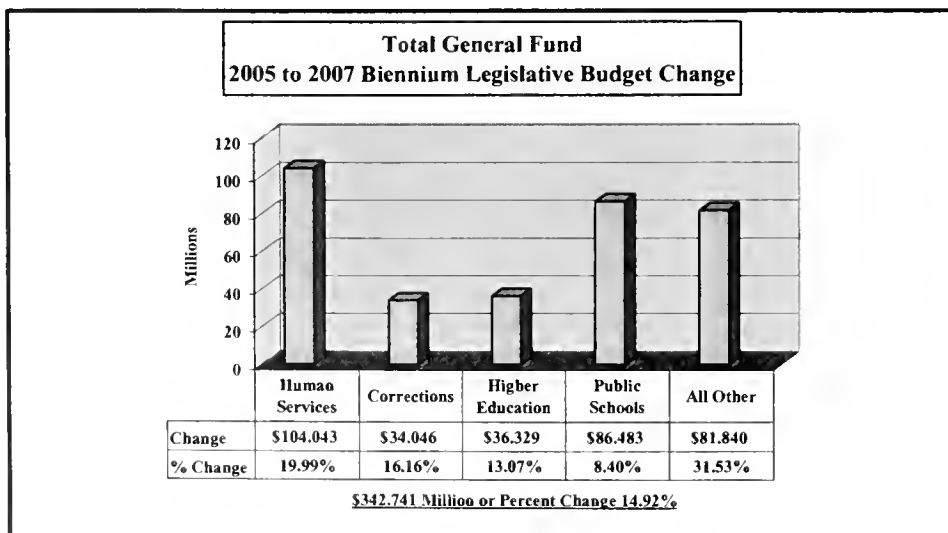
## INCREASES OVER THE 2005 BIENNIUM

The 2007 biennium total in HB 2 and HB 447 are increases in general fund of \$342.7 million and in total funds of \$831.6 million over the 2005 biennium level. The following summary highlights the factors in those increases.

### General Fund Increases

Figure 3 shows the allocation, by program area, of the increase in general fund. As shown, each area of state government received significant increases, with the largest increases occurring in human services, K-12 education, and other. A more detailed explanation of the increases occurs under the heading "Appropriations by Program Area" on page 77.

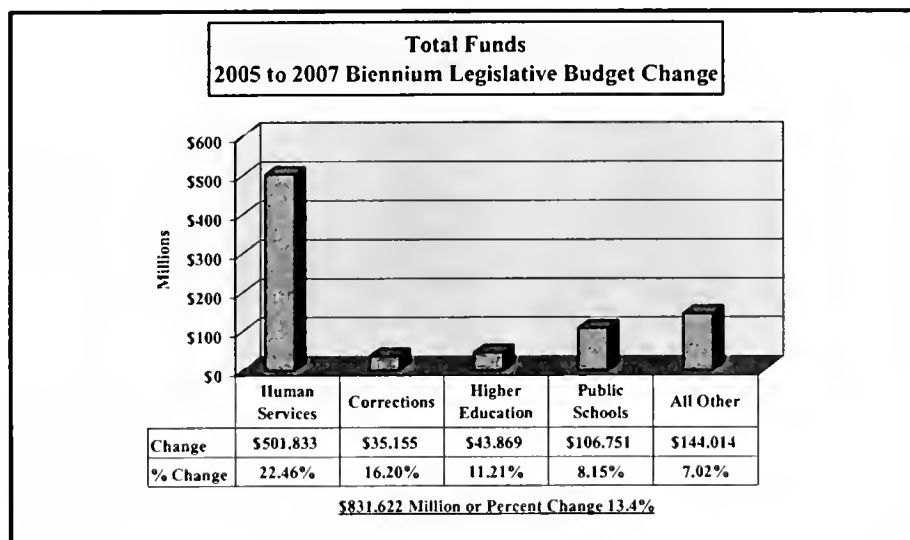
Figure 3



## Total Funds Increase

Figure 4 shows the allocation, by program area, of the increase in total funds. As shown, increases in total funds are dominated by human services. Increases are further discussed on page 77.

Figure 4



## LEGISLATIVE PRIORITIES

### General Priorities

As reflected in its approved budget, the legislature had a number of priorities for state government in the 2007 biennium. The following narrative discusses some of the major priorities by program area.

### Human Services

- Maintain existing services to all currently eligible persons, including replacement of federal funds due to a reduction in the federal Medicaid participation rate
- Increase rates paid to human services providers and direct care workers
- Use existing and expanded state funding to maximize the receipt of federal funds to expand services, increase payments to providers, and expand Medicaid eligibility for children
- Increase the availability of prescription drugs and health insurance to a wider group of Montanans
- Expand children's health insurance
- Expand mental health, developmental disability, senior, and physical disability community services
- Maintain payments to TANF recipients

**K-12 Education**

- Increase payments to schools and protect school districts with falling enrollments from sudden drops in funding
- Create and implement Indian Education for All
- Utilize all anticipated federal funds

**Higher Education**

- Enhance access through:
  - Expansion of scholarships and other financial assistance
  - Provision of greater general fund support for operating costs to reduce tuition increases
  - Provision of additional support to Tribal colleges for non-beneficiary students
- Enhance funding for community and Tribal colleges
- Provide staffing and equipment to enhance other programs and services

**Corrections**

- Provide services and/or facilities for all anticipated population increases
- Focus more on treatment and placement options by minimizing the increase in private secure care beds and expanding facilities for revocations and special needs inmates
- Increase payments to current providers

**Other Government**

- Utilize all anticipated federal funds, including highway construction funds
- Provide consistent and quality legal services to the indigent
- Expand or implement programs for economic development
- Complete or begin several computer systems
- Accelerate the water adjudication process
- Provision for a state employee pay plan

***Legislative Priorities – Comparison to the 2004 Base***

The legislature generally examines the budget compared to the adjusted FY 2004 base, rather than to the 2005 biennium. Adjustments made to the budget are also made to this base. The following highlights the major changes in general fund from the doubled FY 2004 base made by the legislature, by type of activity.

Figure 5

**Major Factors - HB 2 and HB 447 General Fund Increase  
From the Doubled FY 2004 Base  
2007 Biennium**

Element	Funds	--- General Fund ---	
		Percent of Total	Cumulative Percent
Doubled 2004 Base	\$2,275.6	---	---
<u>Major Adjustments - \$364.9 million</u>			
K-12 3 Yr. Avg/Inflation/Entitlement Increase/Allow Transfer	\$64.2	17.6%	17.6%
Medicaid Matching Rate*	54.0	14.8%	32.4%
Human Services Caseloads and Service Changes	41.0	11.2%	43.6%
State Employee Pay Plan	37.6	10.3%	53.9%
MUS Positions/Scholarships/Equipment/Present Law Funding	32.8	9.0%	62.9%
Corrections Populations/Per Diem Increases/Overtime	24.8	6.8%	69.7%
Other Payments to Schools	23.1	6.3%	76.1%
Computer Systems (Inc. Funding Replacement)	15.9	4.3%	80.4%
Statewide Present Law Adjustments	15.4	4.2%	84.6%
DPHHS Institutional Costs (Overtime, Utilities, Etc.)	8.0	2.2%	86.8%
Statewide Public Defender Program***	5.7	1.6%	88.4%
Economic Development Programs	4.6	1.3%	89.7%
License Plate Manufacture/Replacement**	4.5	1.2%	90.9%
Provider Rate Increases - Human Services	4.0	1.1%	92.0%
Emergency Telecommunications	3.5	1.0%	93.0%
Other Adjustments	<u>25.7</u>	7.0%	100.0%
 Total 2007 Biennium	 <u>\$2,640.5</u>		

\*Does not include \$1.1 million for non-Medicaid expenditures that use the Medicaid matching rate.

\*\*Includes expenditures in corrections and the Department of Justice.

\*\*\*New costs not transferred from other agencies.

Over half of the increase in general fund is due to increases for two purposes:

- Base aid and other direct payments to schools; and
- Present law adjustments in human services to maintain services to currently eligible persons due to a reduction in federal funds owing to a reduction in the Medicaid match rate, service and utilization changes, and institutional costs

The following figure shows the changes to general fund, by program area, to the doubled FY 2004 base.

Figure 6

**Major Factors - HB 2 and HB 447 General Fund Increase  
By Functional Area  
From the Doubled FY 2004 Base  
2007 Biennium**

Element	Funds	--- General Fund (in millions) ---	
		Percent of Total	Cumulative Percent
Doubled 2004 Base	\$2,275.6	---	---
<u>Major Adjustments - \$364.9 Million</u>			
Education	\$120.0	32.9%	32.9%
Human Services	107.7	29.5%	62.4%
Corrections	36.7	10.0%	72.4%
Other	<u>100.5</u>	27.5%	100.0%
 Total 2007 Biennium	 <u>\$2,640.5</u>		

## Legislative Priorities – Summary

The following highlights major appropriations factors in the 2007 biennium.

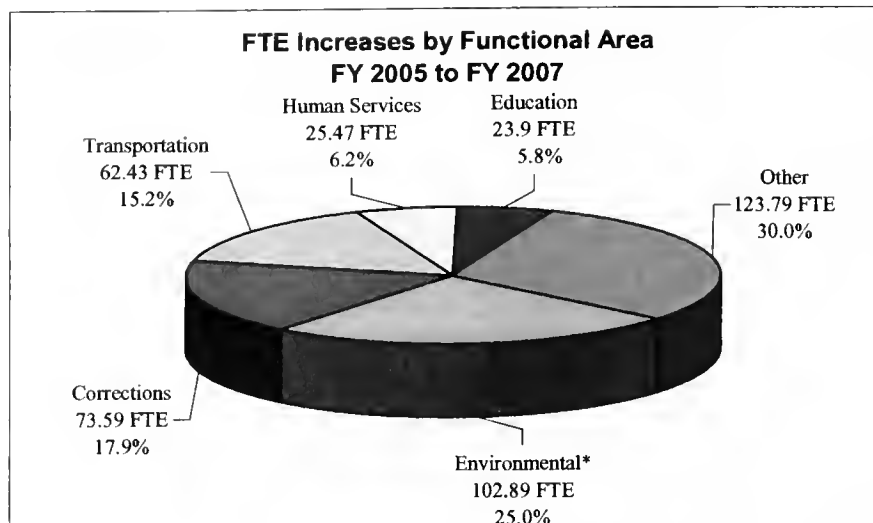
FTE	
<ul style="list-style-type: none"> <li>FTE increase by over 248.12 in FY 2006 compared to FY 2005, with an additional 163.95 FTE in FY 2007, for a total increase over the biennium of 412.07 FTE. Major increases are in the Departments of Transportation; Fish, Wildlife, and Parks, and Environmental Quality, and in the new Office of the Public Defender from both new staff and staff transferred from local governments</li> </ul>	
General Fund/Total Funds	
<ul style="list-style-type: none"> <li>General Fund</li> <li>Total Funds</li> </ul>	<ul style="list-style-type: none"> <li>General fund increases by \$342.7 million, or 14.9 percent, to \$2.6 billion</li> <li>Total funds increase by \$831.6 million, or 13.4 percent, to \$7.0 billion</li> </ul>
Major Present Law Adjustments	
<ul style="list-style-type: none"> <li>Human Services</li> </ul>	<ul style="list-style-type: none"> <li>Maintenance of Medicaid and other program recipient eligibility through additional total funding, and increased general fund required by reduction in the federal Medicaid match rate</li> </ul>
<ul style="list-style-type: none"> <li>K-12 Education</li> </ul>	<ul style="list-style-type: none"> <li>Inflationary increases and adjustments for enrollment changes</li> <li>Maintenance of FY 2005 expenditures for special education</li> <li>Utilization of all anticipated federal funding increases</li> </ul>
<ul style="list-style-type: none"> <li>Higher Ed</li> </ul>	<ul style="list-style-type: none"> <li>Funding of all anticipated enrollment increases</li> <li>Increase in percent of general operating expense increases funded with general fund to reduce tuition increases</li> </ul>
<ul style="list-style-type: none"> <li>Corrections</li> </ul>	<ul style="list-style-type: none"> <li>Increases in private pre-release beds and probation and parole officers to address rising populations</li> <li>New issue license plate manufacturing costs</li> <li>Increases in payments to providers</li> </ul>
<ul style="list-style-type: none"> <li>All Other Gov't</li> </ul>	<ul style="list-style-type: none"> <li>Complete total maximum daily load (TMDL) in environmental programs, and match anticipated federal funds for highways construction, and other purposes</li> </ul>
<ul style="list-style-type: none"> <li>All Agencies</li> </ul>	<ul style="list-style-type: none"> <li>Statewide present law adjustment for personal services, fixed costs, and inflation</li> </ul>
Major New Initiatives	
<ul style="list-style-type: none"> <li>Human Services</li> </ul>	<ul style="list-style-type: none"> <li>Medicaid redesign initiatives to utilize existing state resources to expand coverage</li> <li>Utilization of I-149 funds for provider rate and direct care worker wage increases, prescription drugs and small employer health credits (State Auditor), and expanded Medicaid services</li> <li>Increased enrollment in CHIP</li> <li>Expanded Medicaid and mental health services</li> <li>Increase in other provider rates and direct care worker wages</li> </ul>

○ K-12 Education	<ul style="list-style-type: none"> <li>○ Increases in base aid through use of 3-year enrollment averaging and increases in the entitlement per elementary and high school student</li> <li>○ Increased special education, gifted and talented, school facility payments, and vocational education payments to schools</li> <li>○ Planning and coordination of Indian Education for All</li> </ul>
○ Higher Ed	<ul style="list-style-type: none"> <li>○ Increased Tribal and community colleges support</li> <li>○ Additional financial aid</li> <li>○ Additional funds for equipment purchases at 2-year units</li> <li>○ Expanded staff in the agencies</li> <li>○ Additional student loan authority</li> </ul>
○ Corrections	<ul style="list-style-type: none"> <li>○ Funding of a center to address revocation of probation or parole and facility to address special needs inmates to address rising populations</li> </ul>
○ All Other Gov't	<ul style="list-style-type: none"> <li>○ Provision of a state office to address concerns about the provision of legal services to indigent persons (Office of the Public Defender)</li> <li>○ Completion or start of various computer systems</li> <li>○ Establishment or expansion of various economic development programs</li> <li>○ Provision of additional fire attack capabilities and cooperation</li> <li>○ Acceleration of the water adjudication process</li> <li>○ Maintenance of the Hunter Access and Block Management Programs, and expansion of various wildlife programs</li> </ul>
○ All Agencies	<ul style="list-style-type: none"> <li>○ Provision of a pay plan that provides a minimum salary increase of 3.5 percent in FY 2006 and 4.0 percent in FY 2007, along with an increase in insurance contributions</li> </ul>
<b>Fund Source</b>	
○	Reversing a recent trend, general fund assumes a slightly greater share of the total budget due to an increase of almost 15 percent. However, double digit increases in state special revenue and federal funds make the change a small one.
<b>Functional Share of the Budget</b>	
○	Despite large increases, the K-12 portion of the budget continues to fall due to large increases in other areas, most notably human services and "all other".

## FTE

FTE increase by 412.07, or 3.6 percent, in FY 2007 compared to the FY 2005 level funded by the 2003 Legislature. Figure 7 shows the allocation of funding for the additional FTE by functional area.

Figure 7



The increases are due to the following:

- Environmental programs increase for a number of initiatives, including replacement of contract information technology with state employees, acceleration of the water adjudication process and provision of additional initial fire attack capabilities
- "Other" is dominated by the establishment of a new Office of the Public Defender that, in addition to current state employees, is populated with new employees and those transferred from local governments
- Corrections staff is added for additional probation and parole officers and to staff a new revocation center
- Transportation staff is added for the new construction plan and to integrate financial systems
- Human services staff is added to administer the new state prescription drug assistance program for low-income seniors and to manage Medicaid services

A more detailed discussion is found in "State Employees – FTE Summary" beginning on page 107 of this volume.

### Summary Table

The following figure compares the 2007 biennium, by fund type, general fund and total funds, to the 2005 biennium. Following this summary, are discussions of major action by fund type and program area.



**Figure 8**  
**Biennium to Biennium Comparison**  
**HB 2 and HB 447**  
**2007 Biennium**

Component	2005 Biennium	2007 Biennium	Difference	Percent Change	Percent of Change	2005	2007
						Percent of Total	Percent of Total
General Fund	\$2,297,723,185	\$2,640,463,926	\$342,740,741	14.9%	41.2%	37.0%	37.5%
State Special	993,026,128	1,111,440,647	118,414,519	11.9%	14.2%	16.0%	15.8%
Federal	2,887,835,586	3,257,467,868	369,632,282	12.8%	44.4%	46.5%	46.3%
Other	<u>26,729,731</u>	<u>27,564,229</u>	<u>834,498</u>	3.1%	0.1%	0.4%	0.4%
Total	<u>\$6,205,314,630</u>	<u>\$7,036,936,670</u>	<u>\$831,622,040</u>	13.4%			
<b>General Fund</b>							
K-12 Education	\$1,028,977,504	\$1,115,460,655	\$86,483,151	8.4%	25.2%	44.8%	42.2%
Higher Education	277,986,004	314,315,075	36,329,071	13.1%	10.6%	12.1%	11.9%
Corrections	210,647,987	244,693,798	34,045,811	16.2%	9.9%	9.2%	9.3%
Human Services	520,511,199	624,553,985	104,042,786	20.0%	30.4%	22.7%	23.7%
All Other	<u>259,600,491</u>	<u>341,440,413</u>	<u>81,839,922</u>	31.5%	23.9%	11.3%	12.9%
Total	<u>\$2,297,723,185</u>	<u>\$2,640,463,926</u>	<u>\$342,740,741</u>	14.9%			
<b>Total Funds</b>							
K-12 Education	\$1,309,165,538	\$1,415,916,924	\$106,751,386	8.2%	12.8%	21.1%	20.1%
Higher Education	391,504,387	435,373,210	43,868,823	11.2%	5.3%	6.3%	6.2%
Corrections	217,073,483	252,228,747	35,155,264	16.2%	4.2%	3.5%	3.6%
Human Services	2,234,800,021	2,736,632,805	501,832,784	22.5%	60.3%	36.0%	38.9%
All Other	<u>2,052,771,201</u>	<u>2,196,784,984</u>	<u>144,013,783</u>	7.0%	17.3%	33.1%	31.2%
Total	<u>\$6,205,314,630</u>	<u>\$7,036,936,670</u>	<u>\$831,622,040</u>	13.4%			

## APPROPRIATIONS BY PROGRAM AREA

### Major Policy Highlights by Program Area 2007 Biennium

- **K-12 education** increases \$86.5 million general fund and \$106.8 million total funds  
Major increases include:
  - 3-year averaging to determine enrollment for base aid calculations, an increase in entitlements of \$250 per elementary student and \$100 per high school student, and inflationary increases
  - Increases in other payments to schools, including special education, vocational education, facilities, and gifted and talented
  - Additional federal grants
  - Funds for various Indian Education for All functions
- **Higher education** increases \$36.3 million general fund, primarily due to funding of all enrollment increases and other maintenance costs at 80 percent general fund instead of the previous 43 percent
  - The legislature funded increases in community colleges and Tribal colleges payments, expanded the state subsidy of non-beneficiary students at Tribal colleges, expanded or created scholarship programs, and funded new FTE in the

- agencies and the guaranteed student loan program
- The Board of Regents increased tuition in FY 2006 by from 3 to 12 percent to fund the HB 2 budget and the pay plan, as well as other initiatives of the Montana University System
- **Human services** increase \$104.0 million general fund and \$501.8 million total funds
  - Medicaid caseload and service increases, as well as a reduction in the percent of the total Medicaid costs funded with federal funds, cause over 60 percent of the general fund increase
  - Rates paid to providers of services, including appropriations for direct care workers wage increases, are significantly increased
  - New programs to provide expanded insurance coverage are funded primarily with I-149 funds
  - CHIP enrollment is expanded from 10,900 to 13,900
  - Childcare is expanded and funded with more general fund to free up TANF funds for direct payments
- **Corrections** is increased to deal with rising populations, including a new revocation center, additional probation and parole officers, higher payments to current providers, and funding of most anticipated overtime costs
  - The department enters the 2007 biennium with a potential shortfall due to two factors: 1) all anticipated overtime costs were not funded; and 2) the department will borrow against 2007 biennium appropriations to fund all anticipated FY 2005 costs
- **Transportation** is funded to match all anticipated federal funds
  - The highways state special revenue account is structurally imbalanced
  - Congress has yet to pass a new highway funding bill, and actual allocations may differ from the amount anticipated by the legislature
- **Other** policy issues
  - The legislature created a new Office of the Public Defender, which adds 20.00 new state FTE and transfers 65.75 FTE from local governments
  - Additional FTE and funding were provided to the Judiciary and the Department of Natural Resources and Conservation to accelerate the water adjudication process
  - Funding was provided to completely shut down the POINTS system and pay off all costs of the new IRIS system, and additional funds were appropriated to replace the property tax system
  - Several new economic development initiatives were passed, most notably the creation of a new sub-fund in the coal tax trust, the interest from which will fund economic development activities (statutory appropriation not in HB 2)
  - A state employee pay plan was passed to provide additional funds to provide an insurance increase and a minimum salary increase of 3.5 percent in FY 2006 and 4.0 percent in FY 2007

## K-12 EDUCATION

The Legislature increased general fund appropriations for the Office Of Public Instruction by \$86.5 million in the 2007 biennium compared with adjusted appropriations in the 2005 biennium. Of this amount, the state level activities increased \$5.8 million for: 1) development of curricular; and professional development materials in Indian Education for All; and 2) development of a student education information database. The remaining general fund increase, \$80.7 million for distribution to

schools, consists of increases in base aid and other categorical programs. The base aid increase, approximately \$68 million, is due to:

- Increases in the basic and per-ANB entitlements for inflation
- Additional increases in the per-ANB entitlements of \$250 per ANB for elementary districts and \$100 per ANB for high school districts
- Three-year averaging of ANB for purposes of calculating base aid

Additional increases in categorical programs are for special education, school facilities, other increases, and a new program in Indian Education for All.

In addition to biennial increases in general fund for OPI, an additional biennial increase of \$1.4 million was statutorily appropriated from the guarantee fund for base aid. This increase is primarily due to projected growth in revenue from oil and natural gas taxes on state lands. Any increases in guarantee fund revenues for base aid reduces the amount for base aid required from the general fund.

The legislature increased all fund appropriations for the Office Of Public Instruction by \$106.8 million in the 2007 biennium compared with adjusted appropriations in the 2005 biennium. In addition to the \$86.5 million for general fund increases, the increase in federal funds was \$20.3 million, primarily for special education and at risk students, as well as school lunch programs.

## HIGHER EDUCATION

In HB 2, the legislature approved a total of \$328.6 million of funding for the university system from general fund and the six-mill levy revenue in the 2007 biennium. This funding represents an increase of \$22.5 million over base year funding during the 2005 biennium. Pay plan funding (HB 447) added an additional \$12.8 million general fund in the 2007 biennium.

The 2007 biennium legislative budget:

- Includes \$10.8 million general fund for new proposals related to the "Shared Leadership for a Stronger Montana Economy" initiatives, including:
  - \$2.8 million for Tribal college assistance
  - \$0.9 million for increased community college assistance for unspecified enhancements
  - \$2.0 million for increased financial aid
  - \$5.1 million for equipment, additional agency staff, and distance learning
- Adds FTE for programs in the Office of the Commissioner of Higher Education:
  - 8.00 FTE in the federally funded Guaranteed Student Loan Program
  - 1.00 FTE in the administration program to support the shared leadership initiatives (database warehouse administrator)
- Includes \$6.7 million of present law adjustments to support moderate enrollment and operations cost increases at the university educational units, based upon a change to the cost sharing formula that rises from 43 percent to approximately 80 percent (based upon the ratio of resident students)
- Increases general fund for community college assistance \$2.3 million primarily due to projected enrollment growth
  - The Governor's Postsecondary Scholarship program is funded at \$1.5 million
  - The Montana Higher Education Grant (MHEG) program receives a one-time-only increase of \$470,000 over the biennium

The legislature also appropriated \$92 million in federal special revenue in the 2007 biennium to support statewide programs administered by the Commissioner of Higher Education, an increase of \$23.5 million over the FY 2004 base year. The primary driver for the additional fed authority for the Guaranteed Loan Program (GSL) is the MSU loan program rejoining GSL. In addition to GSL, federal revenue supports student financial aid, workforce development, professional development for teachers, and academic outreach for at-risk students.

## HUMAN SERVICES

General fund support for the Department of Public Health and Human Services increases 20 percent or \$104 million when the 2005 and 2007 biennia are compared. This growth is primarily due to:

- Increases in state match for Medicaid of about \$30 million because of:
  - Discontinuation of the enhanced federal Medicaid rate
  - Reductions in the federal Medicaid rate that are expected in FY 2006 and 2007
- Medicaid service utilization and eligibility increases - \$35 million
- Provider rate and direct care worker wage increases, primarily for Medicaid services providers - \$5 million
- Medicaid community service expansions - \$3 million
- 2007 biennium pay plan - \$6 million
- Foster care and subsidized adoption caseload - \$4 million

Some of the increase in general fund is partially offset by \$5 million in general fund savings anticipated due to enhanced Medicaid oversight and efficiencies.

State special revenue support for the department increases \$92 million or almost 43 percent primarily due to appropriations for:

- I-149, which increased tobacco taxes to support health and Medicaid initiatives - \$46 million
- Continuation of the hospital bed utilization fees - \$25 million
- The full 32 percent of tobacco settlement proceeds to tobacco prevention and control - \$8 million
- Drug rebate revenues to administer the low-income prescription drug assistance program (SB 324) - \$4 million

Federal funds increase due to:

- Medicaid services funding - \$202 million
- Food stamp benefits - \$59 million
- TANF - \$10 million
- Child care - \$9 million
- Costs allocated among federal programs - \$8 million

## CORRECTIONS

The Department of Corrections general fund, which supplies 97 percent of total funding, increased by \$36.7 million from the 2005 to 2007 biennium. Most of this increase was to address an increase in population that is anticipated to be about 4.5 percent per year. Among the measures taken are:

- An increase in the number of pre-release beds funded
- Authorization for a revocation center at Montana State Prison
- Construction of a special needs facility for inmates with physical or mental issues, including the aged and drug or sexual offenders
- An additional 19.00 FTE probation and parole officers

The legislature funded all statewide present law adjustments and most anticipated overtime costs. However, at the end of FY 2005 the department received authorization to borrow funds to meet FY 2005 obligations in excess of the FY 2005 appropriation, and repay the loan with FY 2006 appropriations. Therefore, the department enters the 2007 biennium with an issue that may require either mitigation efforts and/or legislative action before the end of the 2007 biennium.

## TRANSPORTATION

The combined HB 2 and HB 447 budget for the Department of Transportation decreased \$15.5 million, or 1.4 percent, from the 2005 to the 2007 biennium. The reduction was due to the transfer of funding for the Highway 93 project (Evaro Hill to Polson) from HB 2 to HB 5. If the funding for the Highway 93 project had been approved in HB 2 at the \$93.0 million level requested in the executive budget, the 2007 biennium total fund budget would have increased \$77.5 million, or 6.8 percent, over the 2005 biennium. Significant budget increases are for:

- Funding of a federal-aid construction plan that assumes maximum expenditure of future federal highway funding at levels projected in federal highway funding legislation currently expired but being considered by Congress for reauthorization, including projects earmarked for Montana
- Transferring the Motor Carriers Safety Assistance Program (MCSAP) to the department from the Department of Justice as a result of passage and approval of SB 459
- Computer system enhancements and reprogramming for long-term projects to integrate department automated resource management systems and to address legislative changes

## APPROPRIATIONS BY FUND TYPE

This section compares appropriations made by the legislature by fund type: 1) general fund; 2) state special revenue; and 3) federal funds.

Figure 9 shows a breakdown of HB 2 and HB 447, by source of funding. As shown, federal funds constitute the largest share of total funding.

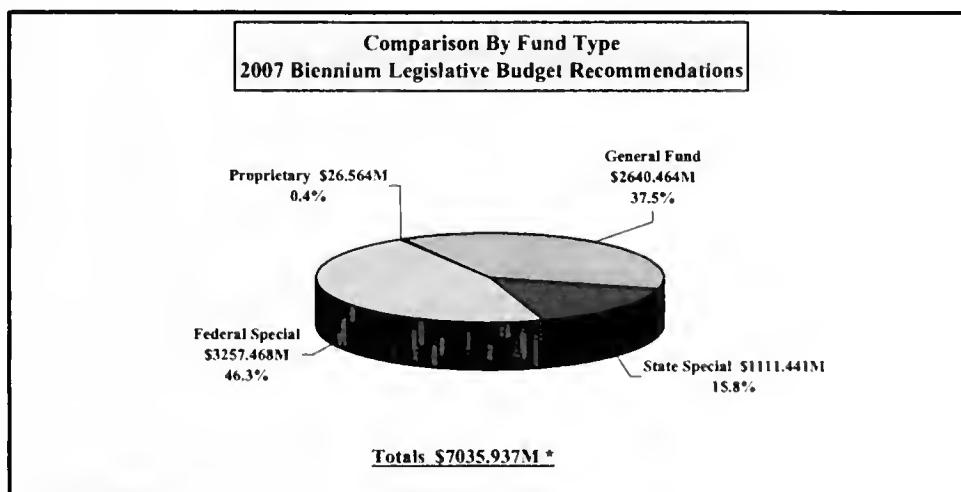
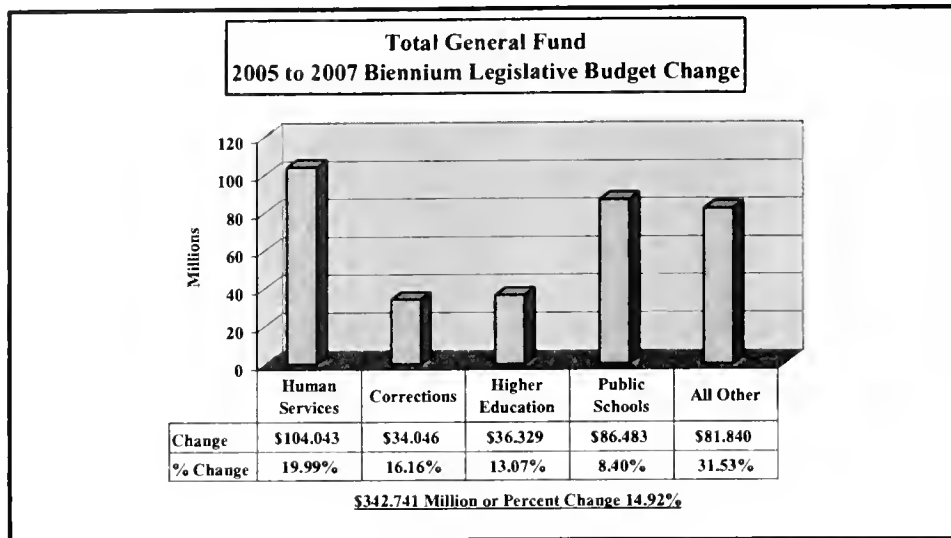


Figure 9

## GENERAL FUND

General fund increases by \$342.7 million, or 14.9 percent. The following chart shows the allocation of the additional funds by area of government.

Figure 10



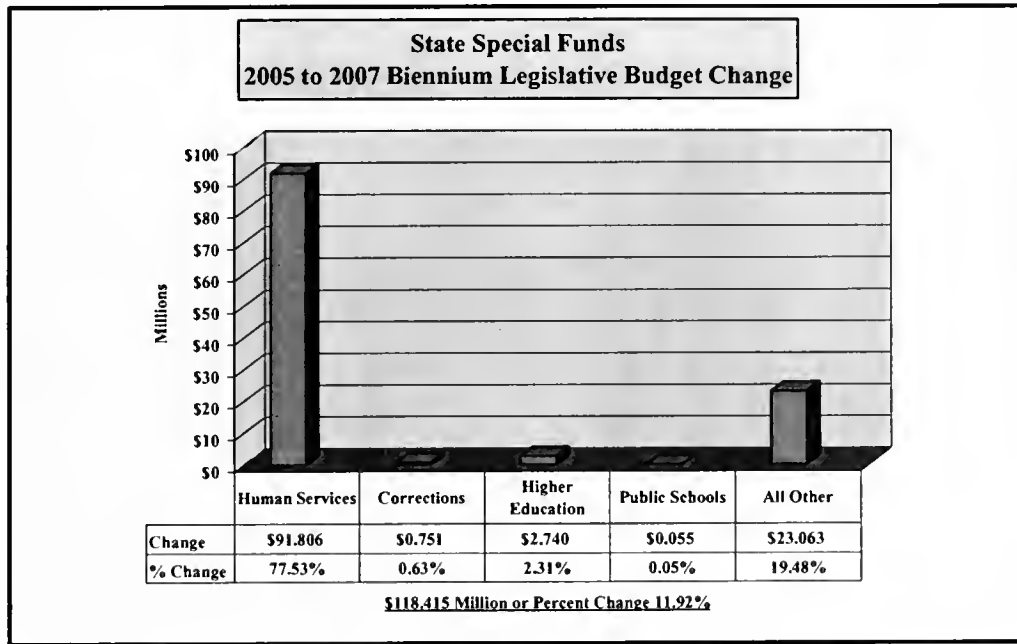
The major increases in general fund are due to the following:

- Human Services - Maintenance of services to persons currently eligible for Medicaid services through funding of caseload increases, service and eligibility changes, and full funding of the increased Medicaid match rate - \$65.0 million
- K-12 Education - Increases to address falling enrollments (3-year averaging for base aid), and provide increases in the per student entitlement for both elementary and high school students, inflationary increases in base aid payments, and several payments to schools - \$86.5 million
- Higher Education – Provision of funding for a variety of initiatives, including financial assistance, Tribal and community college support, equipment, and additional general fund for operating costs to reduce tuition increases - \$36.3 million
- Corrections - Provision of facilities and personnel to address the growing corrections population through the funding of a revocation center, additional probation and parole officers, per diem increases for existing providers, and most anticipated overtime costs - \$34.0 million
- Funding of a new Office of the Public Defender to address a court case that Montana did not provide adequate or consistent legal services for the indigent - \$5.7 million
- Provision of a state pay plan that provides a minimum increase of 3.5 percent in FY 2006 and 4.0 percent in FY 2007 for state employees, as well as an increase in insurance contributions - \$37.6 million
- Funding of all statewide present law adjustments
- Completion or start of several major computer systems – \$15.9 million

## STATE SPECIAL REVENUE

State special revenue increases by \$118.4 million, or 11.9 percent. Of this total increase, the Department of Public Health and Human Services is 77.5 percent. (Figure 11 illustrates).

Figure 11



The increase would have been higher but for two major adjustments:

- All contingency hard rock bonding authority, a portion of MEPA fees, and certain EIS funds were eliminated in the Department of Environmental Quality, as the agency can add any necessary authority through the budget amendment process as needed - \$8.5 million
- All bonding authority for the Highway 93 project was made in HB 5 - \$93.0 million

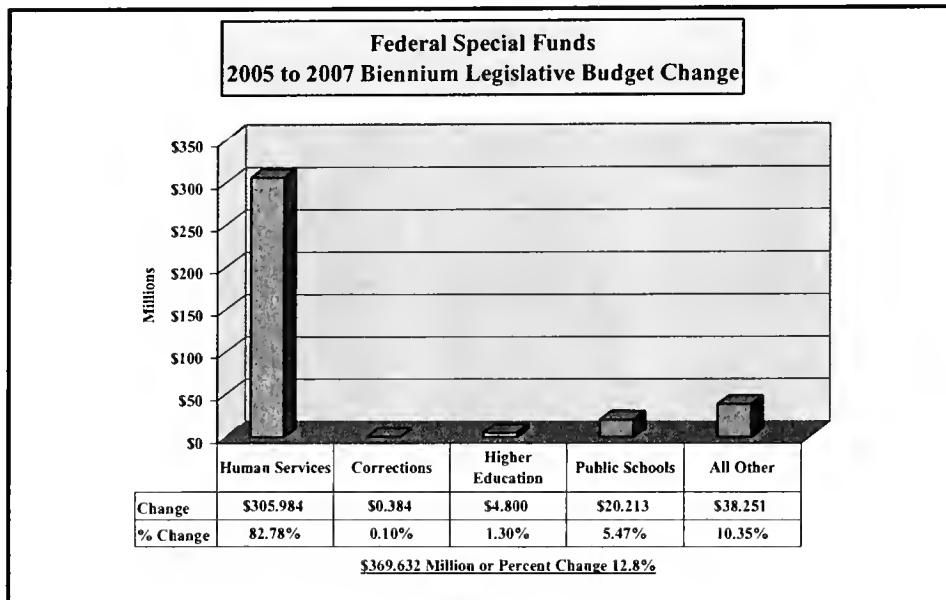
Major increases are due to the following:

- Utilization of I-149 funds for a variety of programs, including Medicaid expansion, prescription drug and small employer health insurance, and provider rates - \$60.8 million
- Hospital utilization and nursing home fees to match federal funds for provider increases - \$26.6 million
- Restoration of the Block Management and Hunter Access Programs - \$9.8 million
- Appropriation of tobacco taxes that had been appropriated on a one-time basis in the 2005 biennium, primarily for tobacco cessation education - \$8.0 million
- Acceleration of the water adjudication process - \$4.6 million

## FEDERAL REVENUE

Federal revenue shows the largest total dollar increase, \$369.6 million. The following figure shows the allocation by area of government.

Figure 12



Almost 83 percent of the increase is in the Department of Public Health and Human Services. There are a number of reasons for the increase:

- Medicaid caseload, utilization, and services increases - \$202 million
- Food stamps caseload increases - \$59 million
- TANF and child care increases - \$19 million

In addition, the legislature provided authority for all anticipated federal grants, most notably in K-12 education, environmental and wildlife programs, and transportation; and provided additional authority to the Commissioner of Higher Education for student loan volume.





## EXPENDITURE LIMITATION

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### 2007 BIENNIUM LEGISLATIVE BUDGET BELOW LIMIT

Section 17-8-106, MCA, limits the percentage allowed in biennial appropriations ("state expenditures") from the general fund, state special revenues, and the cash portion of the capital projects fund to the percentage growth in Montana's personal income. With two exceptions, appropriations for the 2007 biennium cannot exceed appropriations for the 2005 biennium increased by the percentage growth in Montana personal income. Section 17-8-106, MCA, states:

*Expenditure limitation -- exception. (1) Except as provided in subsection (2), the state expenditures for a biennium may not exceed the state expenditures for the preceding biennium plus the product of the state expenditures for the preceding biennium and the growth percentage. The growth percentage is the percentage difference between the average Montana total personal income for the 3 calendar years immediately preceding the next biennium and the average Montana total personal income for the 3 calendar years immediately preceding the current biennium.*

*(2) The legislature may appropriate funds in excess of this limit from the reserve account if:*

*(a) the governor declares that an emergency exists; and*

*(b) two-thirds of the members of each house approve a bill stating the amount to be spent in excess of the expenditures limitation established in subsection (1), the source of the excess revenue to be spent, and an intention to exceed the limitation.*

*(3) Expenditures may exceed the expenditures limitation only for the year or years for which an emergency has been declared.*

*(4) The legislature is not required to appropriate the full amount allowed in any year under subsection (1).*

The legislative budget for the 2007 biennium is below the statutory expenditure limit by \$1.0 million. Under the legislative budget, the increase in spending in applicable categories that are affected by the limitation is less than the percentage growth in Montana's personal income between 2000-2002 and 2002-2004. The following is a summary of the expenditure limitation calculations applied to the legislative budget for the 2007 biennium.

### CALCULATION OF LIMIT

The following types of appropriations are excluded from the calculations:

- Money received from the federal government
- Payments on bonded indebtedness
- Money paid for unemployment or disability benefits
- Money received from the sale of goods and services
- Money paid from permanent endowments, constitutional trusts, or pension funds
- Proceeds from gifts and bequests
- Money appropriated for tax relief
- Funds transferred within state government or used to purchase goods for resale

Four steps are required to determine the expenditure limit:

**Step 1** - Determine the base appropriation level for the 2005 biennium

**Step 2** - Determine the applicable 2007 biennium appropriations from the general fund, state special revenue fund, and the cash portion of the capital projects fund. Exclude any of the items listed above.

**Step 3** - Determine the percent growth in average personal income for the 3 years preceding the current biennium (2000, 2001, and 2002) and the 3 years preceding the next biennium (2002, 2003, and 2004). The growth in Montana's personal income between these 2 periods is 7.86 percent.

**Step 4** - Increase the 2005 biennium base appropriations by the percentage growth in personal income to establish the expenditure limitation. Subtract the appropriations for the 2007 biennium from the expenditure limitation. This difference is \$1.0 million.

## COMPLIANCE

Figure 1 shows the final expenditure limitation status sheet used to determine the spending limitation for the 2007 biennium. The calculations show that the legislative budget for the 2007 biennium is below the expenditure limit by \$1.0 million and is in compliance with 17-8-106, MCA. Included are specific legislation and associated impacts to the 2005 biennium base and the 2007 biennium budget enacted by the 2005 legislature.

Legislative Fiscal Division Expenditure Limitation Status Sheet 90th Legislative Day - Final	
2005 Biennium Appropriation Base	\$4,197,011,291
Allowable Growth Due to Personal Income Growth (7.86 percent of base) **	329,906,895
Maximum Budget for 2007 Biennium	4,526,918,186
Current 2007 Biennium Budget After Legislative Action	4,525,903,487
<b>2007 Biennium Budget Below the Statutory Limitation</b>	<b>\$1,014,699</b>
** Growth rate has been revised based on Montana Personal Income data released by US Department of Commerce, Bureau of Economic Analysis on March 28, 2005.	
<b>2005 Biennium Appropriation Base</b>	<b>Total</b>
HB2 and HB13 Appropriation	\$3,290,840,200
Cat & Dog Appropriations	81,502,691
Statutory Appropriations	564,387,245
Continuing Appropriations	74,900,923
Language Appropriations	9,130,147
Carry Forward Appropriations	15,767,160
Reverted Appropriations	43,601,292
Exclusions	(144,121,894)
<b>Total 2005 Biennium Appropriation Base Before Legislative Action</b>	<b>\$3,936,007,763</b>
HB0001 Feed bill	\$6,899,722
HB0004 Appropriations normally made by budget amendment	1,000
HB0005 Long-range building appropriations	195,156,504
HB0271 Workforce training supplemental appropriation	2,170,000
HB0332 Supplemental appropriation to fund low-income energy assistance	903,255
HB0713 Fund national guard and military mission assessment and promotion	100,000
HB0745 Supplemental appropriations	55,713,047
HB0761 Life insurance premium reimbursement for members of national guard/reserve	60,000
<b>Total Legislative Action</b>	<b>\$261,003,528</b>
<b>Total 2005 Biennium Appropriation Base After Legislative Action</b>	<b>\$4,197,011,291</b>
(continued)	

**Figure 1**

Figure 1 (continued)

<b>2007 Biennium Appropriation Budget</b>	
Statutory Appropriations	\$589,309,541
Carry Forward Appropriations	15,767,160
Reverted Appropriations	25,866,575
Exclusions	(143,622,456)
HB0002 General appropriations act	3,752,904,573
HB0001 Feed bill	2,100,000
HB0002 General appropriations act	3,590,000
HB0004 Appropriations normally made by budget amendment	-
HB0005 Long-range building appropriations	195,156,504
HB0006 Renewable resource grants	5,000,000
HB0007 Reclamation and development grants	4,957,116
HB0009 Cultural and aesthetic grant appropriations	822,925
HB0011 Treasure state endowment appropriation	16,900,000
HB0012 General obligation bonds for energy conservation program	4,150,000
HB0018 Extend duration of state-tribal economic development commission	120,000
HB0028 Reserve funds for large-scale IT and equipment for Legislature	563,500
HB0035 Highway patrol officer salaries and retention	9,940,725
HB0083 Revise school district tuition payments	336,000
HB0102 Statutory appropriation for highway patrol officers' retirement	2,480,000
HB0169 Revise statutes related to tobacco master settlement agreement	60,000
HB0201 Fund natural resource damage litigation	440,000
HB0204 Revise deposit of gambling machine inspection fee	(112,958)
HB0249 Economic development trust fund	2,919,000
HB0271 Workforce training supplemental appropriation	-
HB0299 Long-range building program bonds	99,211
HB0301 Revise use of Lewis & Clark license plate funds	75,147
HB0327 Increase silicosis benefits	54,000
HB0332 Supplemental appropriation to fund low-income energy assistance	-
HB0414 Statutorily appropriate unexpended juvenile delinquency funds to Supreme Court	1,084,783
HB0423 Provide funding for great plains dinosaur park in Malta	500,000
HB0438 Braille literacy services for blind or visually impaired children	440,004
HB0440 Require locks on anhydrous ammonia storage tanks	80,000
HB0447 Increase state employee pay	3,210,047
HB0484 Mobile meat processor licensing and inspection	88,894
HB0522 Study design of state dental program	10,000
HB0535 Revise taxation of stripper well production	(748,143)
HB0540 Bonding for higher education and other state projects	625,857
HB0550 Fund youth leadership forum for students with disabilities	100,000
HB0552 Change asset test for children for medicaid	1,876,316
HB0577 Appropriate money to fund rape kits and examinations	61,000
HB0584 Promote growth of film and other media in Montana	35,770
HB0700 Revise allocation and use of metal mines license tax	187,000
HB0713 Fund national guard and military mission assessment and promotion	-
HB0728 Create state veterans' cemetery in Yellowstone Co., revise funding of program	1,007,843
HB0740 Appropriate money for asbestos-disease related programs	175,000
HB0742 Create registry for declarations concerning life-sustaining treatment	80,000
HB0745 Supplemental appropriations	-
HB0748 General obligation bonds for water resource projects	380,125
HB0749 Revise nursing home bed tax	9,500,000
HB0757 Revolving loan account for rehabilitation of railroad branch lines	4,359,000
HB0758 Oil, gas, and coal natural resource account fund	2,661,441
HB0761 Life insurance premium reimbursement for members of national guard/reserve	600,000
HB0769 Creating the rail service competition council	100,000
HB0772 Pay travel expenses for catastrophically injured workers	1,000
HB0776 Revise law on taxation of biodiesel and provide incentives	48,000
HB0790 Interim study on split estates and coal bed methane reclamation and bonding	50,000
HJ0002 Revenue estimating resolution	12,097,079
SB0146 Statewide public defender system	(2,559,141)
SB0370 Detention officers included in sheriffs' retirement system	(24,951)
<b>Total 2007 Biennium Appropriation Budget After Legislative Action</b>	<b>\$4,525,903,487</b>

## IMPLICATIONS FOR THE 2007 BIENNIUM

The 2007 biennium expenditure limitation shown in this report was calculated using projections for the 2007 biennium. A number of factors exist that will or could change the calculations throughout the 2007 biennium, as actual data becomes available:

- Because some amounts of appropriations, such as reverted appropriations, for the 2007 biennium were not known prior to that biennium, estimates were made - at the beginning of FY 2006, the amounts of these appropriations will be known
- Some amounts of appropriations, such as statutory appropriations and budget amendments, were also estimated prior to the 2007 biennium - Although more accurate information will be available at the beginning of FY 2006, the amounts of these appropriations are established and changed by the executive throughout the biennium
- Any changes, eliminations, or additions to appropriations by the 59<sup>th</sup> Legislature in special session (for example, the solution to the education funding lawsuit in late calendar 2005) or by the 60<sup>th</sup> Legislature for the 2007 biennium (supplemental appropriations) will also change the expenditure limitation calculations
- The change in Montana personal income determines the allowable increase in appropriations from one biennium to another - These data are periodically updated and these updates would also change the expenditure limitation calculations

Because of these factors, the 2007 biennium expenditure limitation will most likely change each time it is calculated.

Currently, the 2007 legislative budget is \$1.0 million below the limit. If any of the above factors result in additional appropriations in excess of this amount. The expenditure limit will be exceeded.

# BUDGET COMPARISONS

**Introduction**

**Comparison to Executive Budget**

**Comparison to Present Law**

**Biennial Budget Comparisons**

**Agency Budget Comparisons by Fund**







# BUDGET COMPARISONS

## INTRODUCTION

The purpose of this section is to present budget comparisons in different ways to give the reader various perspectives of the action taken by the 2005 Legislature. In the following pages, the 2007 biennium budget is summarized in ways that reflect the actions of the legislature relative to previous actions or benchmarks. These are discussed in three parts:

- Comparison to Executive Budget – reports how the budget adopted by the legislature compares to (differs from) the budget submitted by the Governor at the beginning of the session.
- Biennial Budget Comparisons – shows how the approved 2007 biennium budget compares to the expenditures of the 2005 biennium (the expenditures of the 2005 biennium are FY 2004 actual expenditures and adjusted appropriations for FY 2005).
- Agency Budget Comparisons by Fund – compares the 2007 biennium budget to fiscal 2004 expenditures and fiscal 2005 adjusted appropriations, except that this comparison is presented by fund for each agency of state government.

## COMPARISON TO EXECUTIVE BUDGET

The 2007 biennium budget established by the legislature in HB 2 and HB 447 is \$63.5 million general fund and \$64.7 million total funds higher than the amount recommended by Governor Schweitzer as published in January 2005. Figure 1 graphically shows the differences. However, please note that Figure 1 includes the impact of the 2007 biennium pay plan. The pay plan was proposed by Governor Schweitzer, but not incorporated into agency budgets at the time of publication. If the pay plan is excluded, the total difference in general fund is less than 1.1 percent.

Figure 1

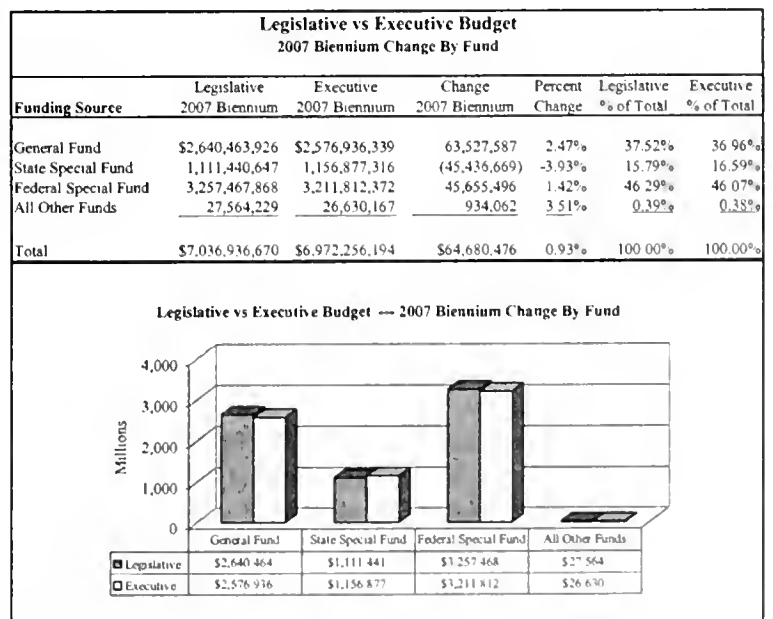


Figure 2 highlights the major differences between the executive budget as published and legislative appropriations. The agency narratives in Volumes 3 and 4 include a detailed discussion of differences between the proposed executive budget and the 2007 biennium appropriations for each agency.

The following provides a brief discussion of the major differences in four primary program areas: 1) K-12 education; 2) human services; 3) corrections; and 4) transportation.

## K-12 EDUCATION

The legislative budget reflects both new initiatives by the legislature, and the adoption of initiatives brought by the executive subsequent to the publishing of the budget on January 7. The legislature added the following:

- o Three year averaging of enrollments for purposes of determining ANB
- o An increase in entitlement per both elementary and high school students

## HUMAN SERVICES

The difference between the executive budget and the budget adopted by the legislature is due to a number of changes. Among the most notable are:

- o The legislature began a number of new initiatives, including direct care worker wage increases, service and eligibility expansion, funding switches to increase monthly cash assistance levels, provider rate increases, and staff and operating costs to either enhance revenue or increase efficiency and appropriate use of funds
- o The Governor did not include any matching funds for I-149 initiatives, and had not included all provider rate increases due to the passage of SB 120, which maintained and increased the provider taxes used to match additional federal funds
- o The Governor had proposed additional general fund to supplement the low income energy assistance program that was not approved
- o Medicaid and other program costs were updated as the session progressed

Figure 2

Major Differences from the Executive  
HB 2 and HB 447 - 2007 Biennium  
in Millions

Agency	Component	Gen Fund Over (Und) Exec	All Funds Over (Und) Exec
General or Statewide			
	HB 447 Pay Plan	\$36.0	\$70.3
Judiciary			
	Transfer to Public Defender	(8.1)	(8.1)
Governor's Office			
	Various Initiatives Not Funded or Reduced	(1.4)	(1.8)
State Auditor			
	Health Insurance Programs		12.8
Transportation			
	Change in Construction Estimates		(15.4)
	Transfer Highway 93 to HB 5		(93.0)
Revenue			
	Move Request for IRIS Payoff to FY05	(2.1)	(2.1)
	Reduce Ag/Forest Land Reappraisal	(0.8)	(0.8)
Administration			
	Various Reductions/Transfer of Consumer Protection Ofc	(0.7)	(4.4)
Office of Public Defender			
	Create New Office	14.7	14.7
Health & Human Services			
	Legislative Initiatives	7.0	21.0
	Updated Medicaid	2.0	6.0
	Hospital Bed Tax		23.0
	Matching Funds for I-149		26.0
	Reduction in LIEAP Funding	(7.4)	(7.4)
	Additional Food Stamps		10.0
Fish, Wildlife, Parks			
	Hunting Access Enhancement Program		6.9
	Miscellaneous Incentives		2.0
Environmental Quality			
	No Hazardous Waste Study/Pass Meth Cleanup Bill	(1.7)	(1.7)
	Hard Rock Bond Forfeits/MEPA EIS Fees		(22.6)
	Various Reductions		(2.6)
DNRC			
	Expedite Water Adjudication		3.8
	Initial Fire Attack	2.0	2.0
Justice			
	Funding Switch	1.5	0.1
	Accounting and Reporting System	(1.1)	(0.4)
	Other and Various Elected Official Requests	2.0	4.2
Corrections			
	Offender Tracking System	(1.6)	(1.6)
	Increased Per Diem	1.5	1.5
	Decreased Contract Beds	(7.2)	(7.2)
	Pre-Release/MSP Expansion	11.9	11.9
OP1			
	3 Yr Avg/Entitlement Increase	19.5	19.5
University System			
	Various	(1.5)	(1.5)
Net Other		(0.9)	(0.4)
	Total	\$63.5	\$64.7



## CORRECTIONS

The legislature approved most of the executive proposals and added \$10.7 million in additional funding to cover projected increases in the adult average daily populations (ADP) of about 4.5 percent in each fiscal year of the biennium. The legislature was not in favor of expanding the private prison in Shelby nor the regional county-managed prisons in Missoula, Great Falls, and Glendive as proposed by the executive. The legislature preferred that any increases in ADP be handled by arranging for additional pre release facilities, development of a revocation center at the Montana State Prison, and development of a special needs facility for inmates that have physical or mental health issues, such as drug problems, sex offenders, or who are elderly. In addition and at the request of the executive, the legislature did not fund an offender tracking system.

## TRANSPORTATION

The difference between the legislative budget and the budget proposed by the executive is primarily due to two factors:

- The construction plan was updated by the executive to reflect anticipated activities during the biennium
- The legislature chose to provide appropriations authority for highway 93 bonding in HB 5, rather than HB 2, due to the long-term bonding nature of the project

## OTHER MAJOR DIFFERENCES

The primary other differences between the published executive budget and the legislative budget are the following:

- The legislature established an Office of the Public Defender to provide consistent, quality legal services for indigent persons
- The legislature provided additional funding to expedite the water adjudication process
- Contingent authority for hard rock mining bonding was eliminated, as the budget amendment process can be used
- The hunting access management program was continued
- The legislature included funding from I-149 revenues for HB 667, which provides for tax credits to implement two health insurance programs for small businesses, in the State Auditor's Office

## BIENNIAL BUDGET COMPARISON

This section summarizes the legislature's budget for the 2007 biennium and compares it to expenditures/appropriations for the 2005 biennium.

The legislature's 2007 biennium budget includes an additional \$344 million general fund, a 13 percent increase. Total approved increases (all funds) amount to \$824 million, a 12 percent increase. The general fund and total spending increases are supported by existing sources of revenue, with the large general fund and federal increases being indicative of substantial general fund and federal revenue increases estimated for the 2007 biennium. Transfers, including the one-time transfers of general fund, are not included as required by the statutory comparison methodology.

### METHODOLOGY

The state budget is highly complex, and the methods used to compute comparisons within the context of that budget can vary considerably. Without consistent comparison methodology, the comparisons can also be subject to manipulation. The Legislative Finance Committee (LFC) developed a budget comparison methodology that measures budget performance using total state expenditures for state general operations funded by taxpayer taxes, licenses, and fees. This method helps ensure proper representation, fairness, balance, and consistency. Adopted by the 1997 legislature, use of the comparison procedures became a statutory requirement at that time. These procedures provide consistency of application and help avoid the potential for manipulation when comparing information.

The comparisons on the following pages were prepared using the statutory methodology found in 17-7-150 & 151, MCA.

### COMPARISON TO 2005 BIENNIUM

Figures 3 and 4 compare expenditures/appropriations between the 2005 and 2007 biennia for general fund and total funds. As shown in the figures, the largest HB 2 general fund increases are found in the Department of Public Health and Human Services (DPHHS) (\$104 million), Office of Public Instruction (\$86 million), Commissioner of Higher Education (\$36 million), and the Department of Corrections (\$34 million). However, the largest increases in percentage terms occur in the departments of Commerce, Administration, Montana Arts Council, and Labor and Industry.

Figures 3 and 4 are divided into three sections:

- The top part of the table includes by agency all appropriations included in HB 2 (the General Appropriations Act) and pay plan appropriations in HB 447 to specific agencies.
- Because HB 2 and HB 447 do not include all appropriations authorized by the legislature, the second part of the table includes additional appropriations. This section is referred to as "Comparable Adjustments" because the items can be compared across biennia. The total shown in the "Total Legislative Budget Fiscal 06-07" (the 2007 biennium) column represents all appropriations made by the legislature, with the exception of the non-cash portion of long-range building program, budget amendments, supplemental appropriations, and emergency appropriations. Transfers are not included. Long-range building proposals are specifically excluded because spending and timing vary considerably on most building projects. The building expenditures are reflected by the debt service paid over the term of any bonding/leasing agreement. Statutory appropriations represent the executive estimates for non-general fund. General fund statutory appropriations are Legislative Fiscal Division estimates.

All statutory appropriations have been adjusted for new and revised statutory appropriations made by the 2005 legislature. (Note: The total in the "Total Adjusted Fiscal 04-05" (the 2005 biennium) column does not represent all contingent appropriations in that biennium, which are included in the third section.)

- o The third section, "Non Comparable Adjustments", includes all 2005 biennium expenditure/appropriations, including budget amendments, supplemental appropriations, and disaster/emergency costs that cannot be estimated for the next biennium. Excluded from the "Comparable Adjustments" total are probable 2007 biennium expenditures that belong in this category. Consequently, the increases of 11.0 percent for general fund and 7.7 percent for total funds do not represent a true picture of potential growth between biennia.

## ***House Bill 2 Comparisons***

As shown in Figures 3 and 4, general fund appropriations in HB 2 increase \$342.7 million or 14.9 percent. All funds increase \$831.6 million or 13.4 percent, with \$118 million of increases in state special revenue and \$370 million in federal special revenue. These are primarily due to additional state special appropriations in the Department of Public Health and Human Services (\$92 million) and the State Auditor's Office (\$14 million), and additional federal funds appropriations in DPHHS (\$306 million), K-12 Education (\$20 million), and the Department of Environmental Quality (\$15 million).

Appropriation increases are summarized in the "Appropriations Summary" section of this volume, page 69, and are detailed in the narratives of the specific agencies in Volumes 3 and 4.

## ***Comparable Adjustments***

Comparable adjustments include HB 2 appropriations, all miscellaneous appropriation bills including the employee pay plan bill, statutory appropriations, and other appropriation and expenditure adjustments. The legislature increased general fund appropriations for the 2007 biennium by \$344 million as compared to the 2005 biennium, an increase of 13.4 percent. The increase in total all funds spending over comparable 2005 biennium spending is \$824 million, or 12.0 percent.

## ***Non-Comparable Adjustments***

Non-comparable Adjustments, the third section, shows increases of 11.0 percent general fund and 7.7 percent total funds between biennia. As stated earlier, this comparison tends to be distorted by the lack of comparable information for the 2007 biennium. This section and these comparisons are shown for informational purposes only and to complete the listing of 2005 biennium expenditures/appropriations.

Figure 3

General Fund Comparison  
2005 Biennium Versus Legislative Budget 2007 Biennium

Agcy Code	Agency Name	Total Adjusted Fiscal 04-05	Total Leg. Budget Fiscal 06-07	Difference 2007 Biennium - 2005 Biennium	% Change 2007 Biennium 2005 Biennium
1104	Legislative Branch	\$16,106,258	\$17,206,756	\$1,100,498	6.83%
2110	Judicial Branch	58,541,313	69,219,770	10,678,457	18.24%
3101	Governor's Office	8,818,012	11,442,825	2,624,813	29.77%
3202	Commissioner Of Political Practices	632,890	737,907	105,017	16.59%
3401	State Auditor's Office	0	0	0	NA
3501	Office Of Public Instruction	1,028,977,504	1,115,460,655	86,483,151	8.40%
4107	Crime Control Division	3,274,487	3,508,906	234,419	7.16%
4110	Department Of Justice	37,469,684	44,750,130	7,280,446	19.43%
4201	Public Service Regulation	0	0	0	NA
5101	Board Of Public Education	305,290	344,511	39,221	12.85%
5102	Commissioner Of Higher Education	277,986,004	314,315,075	36,329,071	13.07%
5113	School For The Deaf & Blind	6,916,681	9,116,506	2,199,825	31.80%
5114	Montana Arts Council	576,604	901,559	324,955	56.36%
5115	Montana State Library	3,214,435	3,547,622	333,187	10.37%
5117	Montana Historical Society	3,481,698	4,195,808	714,110	20.51%
5301	Department Of Environmental Quality	6,217,300	8,691,845	2,474,545	39.80%
5603	Department Of Livestock	1,054,263	1,236,176	181,913	17.25%
5706	Dept Of Natural Resources & Conservation	34,320,252	39,721,078	5,400,826	15.74%
5801	Department Of Revenue	56,348,979	77,781,743	21,432,764	38.04%
6101	Department Of Administration	6,912,919	11,506,358	4,593,439	66.45%
6102	Appellate Defender	373,462	216,959	(156,503)	-41.91%
6106	Mt Consensus Council	0	137,869	137,869	NA
6108	Office Of The Public Defender	0	14,661,846	14,661,846	NA
6201	Department Of Agriculture	1,226,366	1,562,496	336,130	27.41%
6401	Department Of Corrections	210,647,987	244,693,798	34,045,811	16.16%
6501	Department Of Commerce	3,149,336	7,990,127	4,840,791	153.71%
6602	Department Of Labor & Industry	2,353,932	3,350,693	996,761	42.34%
6701	Department Of Military Affairs	8,306,330	9,610,923	1,304,593	15.71%
6901	Dept Of Public Health & Human Services	<u>520,511,199</u>	<u>624,553,985</u>	<u>104,042,786</u>	<u>19.99%</u>
Total		\$2,297,723,185	\$2,640,463,926	\$342,740,741	14.92%
<b>Comparable Adjustments</b>					
Employee Pay Proposal		In Above	In Above		
Statutory Appropriations		255,227,183	269,320,830	14,093,647	5.52%
Legislative Session Costs *		7,658,335	10,150,000	2,491,665	32.54%
Miscellaneous Appropriations		35,666,939	5,024,898	(30,642,041)	-85.91%
One-Time Only Costs		4,879,830		(4,879,830)	-100.00%
Anticipated Reversions		(26,549,000)	(6,243,000)	20,306,000	-76.48%
Total With Comparable Adjustments		\$2,574,606,472	\$2,918,716,654	\$344,110,182	13.37%
<b>Non Comparable Adjustments</b>					
Budget Amendments		0		0	
Supplementals		55,253,302		(55,253,302)	-100.00%
Disaster/Emergency Costs (SA)		33,760	0	(33,760)	-100.00%
Total With All Adjustments		\$2,629,893,534	\$2,918,716,654	\$288,823,120	10.98%

\* Reversions of \$3,154,812 and \$3,150,000 are expected in the 2005 and 2007 biennia, respectively.

Figure 4

All Funds Comparison  
2005 Biennium Versus Legislative Budget 2007 Biennium

Agcy Code	Agency Name	Total Adjusted Fiscal 04-05	Total Leg. Budget Fiscal 06-07	Difference 2007 Biennium - 2005 Biennium	% Change 2007 Biennium 2005 Biennium
1104	Legislative Branch	\$20,164,335	\$21,372,792	\$1,208,457	5.99%
1112	Consumer Council	2,645,816	2,873,505	227,689	8.61%
2110	Judicial Branch	64,828,673	73,767,256	8,938,583	13.79%
3101	Governor's Office	21,383,896	11,668,645	(9,715,251)	-45.43%
3201	Secretary Of State's Office	0	11,026,465	11,026,465	NA
3202	Commissioner Of Political Practices	632,890	737,907	105,017	16.59%
3401	State Auditor's Office	9,429,943	23,350,763	13,920,820	147.62%
3501	Office Of Public Instruction	1,309,165,538	1,415,916,924	106,751,386	8.15%
4107	Crime Control Division	27,583,033	30,904,990	3,321,957	12.04%
4110	Department Of Justice	107,919,840	118,802,120	10,882,280	10.08%
4201	Public Service Regulation	5,943,474	5,953,762	10,288	0.17%
5101	Board Of Public Education	649,375	747,623	98,248	15.13%
5102	Commissioner Of Higher Education	391,504,387	435,373,210	43,868,823	11.21%
5113	School For The Deaf & Blind	7,793,250	9,887,740	2,094,490	26.88%
5114	Montana Arts Council	2,093,201	2,529,941	436,740	20.86%
5115	Montana State Library	7,267,048	7,672,738	405,690	5.58%
5117	Montana Historical Society	7,731,532	8,066,797	335,265	4.34%
5201	Department Of Fish, Wildlife & Parks	107,793,794	128,613,537	20,819,743	19.31%
5301	Department Of Environmental Quality	114,755,361	117,788,714	3,033,353	2.64%
5401	Department Of Transportation	1,133,065,121	1,117,548,395	(15,516,726)	-1.37%
5603	Department Of Livestock	16,748,481	17,037,162	288,681	1.72%
5706	Dept Of Natural Resources & Conservation	72,081,283	90,442,055	18,360,772	25.47%
5801	Department Of Revenue	65,985,149	84,058,809	18,073,660	27.39%
6101	Department Of Administration	34,171,013	41,363,169	7,192,156	21.05%
6102	Appellate Defender	373,462	216,959	(156,503)	-41.91%
6106	Mt Consensus Council	513,141	649,931	136,790	26.66%
6108	Office Of The Public Defender	0	14,661,846	14,661,846	NA
6201	Department Of Agriculture	22,354,505	28,307,268	5,952,763	26.63%
6401	Department Of Corrections	217,073,483	252,228,747	35,155,264	16.20%
6501	Department Of Commerce	38,107,439	50,356,950	12,249,511	32.14%
6602	Department Of Labor & Industry	127,113,412	139,340,383	12,226,971	9.62%
6701	Department Of Military Affairs	33,642,734	37,036,762	3,394,028	10.09%
6901	Dept Of Public Health & Human Services	<u>2,234,800,021</u>	<u>2,736,632,805</u>	<u>501,832,784</u>	<u>22.46%</u>
Total		\$6,205,314,630	\$7,036,936,670	\$831,622,040	13.40%
<b>Comparable Adjustments</b>					
Employee Pay Proposal		In Above	In Above		
Statutory Appropriations		637,082,916	642,527,800	5,444,884	0.85%
Legislative Session Costs		7,658,335	10,150,000	2,491,665	32.54%
Miscellaneous Appropriations *		35,666,939	5,024,898	(30,642,041)	-85.91%
One-Time Only Costs (general fund)		4,879,830	0	(4,879,830)	-100.00%
Anticipated Reversions (general fund)		(26,549,000)	(6,243,000)	20,306,000	-76.48%
Total With Comparable Adjustments		\$6,864,053,650	\$7,688,396,368	\$824,342,718	12.01%
<b>Non Comparable Adjustments</b>					
Budget Amendments		220,194,215	240,000	(219,954,215)	-99.89%
Supplementals		55,253,302		(55,253,302)	-100.00%
Disaster/Emergency Costs (SA)		33,760	0	(33,760)	-100.00%
Total With All Adjustments		\$7,139,534,927	\$7,688,636,368	\$549,101,441	7.69%
* Only the general fund portion is shown. All funds cannot be determined based on existing accounting records					

## AGENCY BUDGET COMPARISONS BY FUND

The following series of tables provides, by fund type, a comparison of the 2005 biennium to the 2007 biennium agency appropriations. The 2005 biennium figures are comprised of the adjusted base fiscal 2004 actual expenditures and the adjusted fiscal 2005 appropriations. The 2007 biennium figures are agency appropriations contained in HB 2 (the General Appropriations Act) and HB 447, the pay plan bill (with the exception of contingency funds). Amounts for each fiscal year are shown, as well as combined biennium appropriations and the biennial difference. The final table shows the agency comparison for all funds.

### GENERAL FUND

As defined in 17-2-102, MCA, the general fund "accounts for all financial resources except those required to be accounted for in another fund." The general fund funds the general operations of state government.

General fund increases by \$342.7 million, or almost 15 percent compared to the 2005 biennium. Two areas, public health and K-12 education, account for over half of this increase. The largest increases include:

- K-12 education for inflationary adjustments, 3-year averaging of enrollment for entitlement calculation purposes, an increase in entitlement payments for both elementary and high school students, and increases to several other payments to schools such as special education
- Within human services, replacement of federal funding due to a reduction in the federal Medicaid participation rate, caseload and utilization increases (primarily Medicaid), service expansions, provider and direct care worker rate increases, and increased institutional costs
- Measures to address increasing corrections populations, including additional probation and parole officers, a revocation center, and services and facilities for special needs inmates
- Several initiatives in higher education, including expanded community and Tribal college support, "shared leadership" initiatives, student financial assistance, and an increase in the level of general fund used to fund several present law adjustments to reduce tuition increases
- The 2007 biennium pay plan
- Computer systems, including funding replacement

Figure 5  
General Fund Comparison  
05 Biennium Versus Legislative Budget 07 Biennium

Agcy Code	Agency Name	Adjusted Expenditures Fiscal 2004	Adjusted Authorized Fiscal 2005	Total Leg. Budget Fiscal 2006	Total Leg. Budget Fiscal 2007	Total Adjusted Fiscal 04-05	Total Leg. Budget Fiscal 06-07	Difference 07 Biennium - 05 Biennium	% Change 05 Biennium 07 Biennium
1104	Legislative Branch	\$7,055,185	\$9,051,073	\$8,404,793	\$8,801,963	\$16,106,258	\$17,206,756	\$1,100,498	6.83%
2110	Judicial Branch	31,031,278	27,510,035	38,649,709	30,570,061	58,541,313	69,219,770	10,678,457	18.24%
3101	Governor's Office	4,226,670	4,591,342	5,687,067	5,755,758	8,818,012	11,442,825	2,624,813	29.77%
3202	Commissioner Of Political Practices	309,317	323,573	369,748	368,159	632,890	737,907	105,017	16.59%
3401	State Auditor's Office	0	0	0	0	0	0	0	
3501	Office Of Public Instruction	514,085,061	514,892,443	556,051,049	559,409,606	1,028,977,504	1,115,460,655	86,483,151	8.40%
4107	Crime Control Division	1,623,752	1,650,735	1,740,180	1,768,726	3,274,487	3,508,906	234,419	7.16%
4110	Department Of Justice	18,499,006	18,970,678	22,269,533	22,480,597	37,469,684	44,750,130	7,280,446	19.43%
4201	Public Service Regulation	0	0	0	0	0	0	0	
5101	Board Of Public Education	141,309	163,981	170,637	173,874	305,290	344,511	39,221	12.85%
5102	Commissioner Of Higher Education	140,778,703	137,207,301	154,840,363	159,474,712	277,986,004	314,315,075	36,329,071	13.07%
5113	School For The Deaf & Blind	3,408,893	3,507,788	4,485,335	4,631,171	6,916,681	9,116,506	2,199,825	31.80%
5114	Montana Arts Council	286,250	290,354	510,593	390,966	576,604	901,559	324,955	56.36%
5115	Montana State Library	1,497,806	1,716,629	1,886,237	1,661,385	3,214,435	3,547,622	333,187	10.37%
5117	Montana Historical Society	1,715,418	1,766,280	2,104,888	2,090,920	3,481,698	4,195,808	714,110	20.51%
5301	Department Of Environmental Quality	3,053,744	3,163,556	4,301,439	4,390,406	6,217,300	8,691,845	2,474,545	39.80%
5603	Department Of Livestock	521,303	532,960	608,827	627,349	1,054,263	1,236,176	181,913	17.25%
5706	Dept Of Natural Resources & Conservation	16,825,529	17,494,723	19,634,356	20,086,722	34,320,252	39,721,078	5,400,826	15.74%
5801	Department Of Revenue	29,279,359	27,069,620	39,459,785	38,321,958	56,348,979	77,781,743	21,432,764	38.04%
6101	Department Of Administration	3,362,558	3,550,361	7,445,287	4,061,071	6,912,919	11,506,358	4,593,439	66.45%
6102	Appellate Defender	186,615	186,847	216,959	0	373,462	216,959	(156,503)	-41.91%
6106	Mt Consensus Council	0	0	69,040	68,829	0	137,869	137,869	
6108	Office Of The Public Defender	0	0	527,729	14,134,117	0	14,661,846	14,661,846	
6201	Department Of Agriculture	598,135	628,231	854,055	708,441	1,226,366	1,562,496	336,130	27.41%
6401	Department Of Corrections	104,019,287	106,628,700	119,979,729	124,714,069	210,647,987	244,693,798	34,045,811	16.16%
6501	Department Of Commerce	1,565,311	1,584,025	3,964,787	4,025,340	3,149,336	7,990,127	4,840,791	153.71%
6602	Department Of Labor & Industry	1,155,525	1,198,407	1,642,091	1,708,602	2,353,932	3,350,693	996,761	42.34%
6701	Department Of Military Affairs	4,111,558	4,194,772	4,794,350	4,816,573	8,306,330	9,610,923	1,304,593	15.71%
6901	Dept Of Public Health & Human Services	248,448,589	272,062,610	310,698,339	313,855,646	520,511,199	624,553,985	104,042,786	19.99%
Total		\$1,137,786,161	\$1,159,937,024	\$1,311,366,905	\$1,329,097,021	\$2,297,723,185	\$2,640,463,926	\$342,740,741	14.92%

## STATE SPECIAL REVENUE

As defined in 17-2-102, MCA, the state special fund "consists of money from state and other non-federal sources deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government and money from other non-state or non-federal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation."

State special revenue increases by \$118.4 million, or 11.9 percent, over the 2005 biennium. This increase is the net of several increases and decreases, with human services dominating the increases. The main factors causing the net change in the Department of Public Health and Human Services are the following:

- Expenditure of funds generated from the passage of I-149 in November, 2004 for various health initiatives, including provider rate increases; Medicaid service, mental health, and children's health insurance expansions; and new programs to expand prescription drug and other health insurance coverage
- Appropriation of tobacco settlement proceeds that were one-time expenditures in the 2005 biennium and consequently removed from the FY 2004 base year expenditure totals
- An increase in the voluntary hospital and nursing home bed tax, which is used to match additional federal funds to increase provider rates

In other areas of government, increased funds are due to:

- Increases in professional and occupational board activity in the Department of Labor and Industry, primarily due to changes in legislation to regulate certain independent contractors, as well as a number of smaller changes throughout the agency
- Reestablishment of the hunter access program in the Department of Fish, Wildlife, and Parks, as well as other increased activity
- Establishment of tax credits for small employer health insurance in the Office of the State Auditor

These increases were partially offset by:

- A net reduction in the Department of Transportation due to the transfer of funding for Highway 93 bonding to HB 5, increased construction activity, partially offset by:
- Elimination of contingent hard rock reclamation bonding and MEPA authority in the Department of Environmental Quality, as budget amendment authority can be used as necessary
- Replacement of new worker training funds funded by INTERCAP loan proceeds with general fund in the Governor's Office (transferred to the Department of Commerce)
- A reduction in anticipated fees in the Judiciary for information technology, as the fees will now be deposited in the general fund

Figure 6  
State Special Revenue Fund Comparison  
05 Biennium Versus Legislative Budget 07 Biennium

Agency Code	Agency Name	Adjusted Expenditures Fiscal 2004	Adjusted Authorized Fiscal 2005	Total Leg. Budget Fiscal 2006	Total Leg. Budget Fiscal 2007	Total Adjusted Fiscal 04-05	Total Leg. Budget Fiscal 06-07	Difference 07 Biennium - 05 Biennium	% Change 07 Biennium
1104	Legislative Branch	\$2,091,476	\$1,966,601	\$2,377,645	\$1,788,391	\$4,058,077	\$4,166,036	\$107,959	2.66%
1112	Consumer Council	1,297,083	1,348,733	1,422,501	1,451,004	2,645,816	2,873,505	227,689	8.61%
2110	Judicial Branch	2,378,886	3,563,163	1,555,975	1,599,376	5,942,049	3,155,351	(2,786,698)	-46.90%
3101	Governor's Office	45,247	10,299,338	92,180	91,980	10,344,585	184,160	(10,160,425)	-98.22%
3401	State Auditor's Office	4,402,828	5,027,115	8,071,555	15,279,208	9,429,943	23,350,763	13,920,820	147.62%
3501	Office Of Public Instruction	943,936	948,016	971,066	976,344	1,891,952	1,947,410	55,458	2.93%
4107	Crime Control Division	0	0	93,483	93,483	0	186,966	186,966	
4110	Department Of Justice	27,843,614	34,941,053	35,166,874	31,211,742	62,784,667	66,378,616	3,593,949	5.72%
4201	Public Service Regulation	2,669,538	3,246,224	2,940,209	2,983,707	5,915,762	5,923,916	8,154	0.14%
5101	Board Of Public Education	152,785	191,300	199,889	203,223	344,085	403,112	59,027	17.15%
5102	Commissioner Of Higher Education	13,101,000	13,228,999	14,410,698	14,659,038	26,329,999	29,069,736	2,739,737	10.41%
5113	School For The Deaf & Blind	341,095	342,082	282,752	282,752	683,177	565,504	(117,673)	-17.22%
5114	Montana Arts Council	158,801	156,225	185,086	193,284	315,026	378,370	63,344	20.11%
5115	Montana State Library	1,020,396	1,020,824	1,081,518	1,082,210	2,041,220	2,163,728	122,508	6.00%
5117	Montana Historical Society	517,318	551,581	150,654	170,162	1,068,899	320,816	(748,083)	-69.99%
5201	Department Of Fish, Wildlife & Parks	37,449,204	39,947,154	43,222,001	44,511,299	77,396,358	87,733,300	10,336,942	13.36%
5301	Department Of Environmental Quality	17,829,392	47,871,613	30,281,909	20,870,877	65,701,005	51,152,786	(14,548,219)	-22.14%
5401	Department Of Transportation	237,162,066	257,795,421	241,412,637	245,543,065	494,957,487	486,955,702	(8,001,785)	-1.62%
5603	Department Of Livestock	5,627,536	7,189,943	6,247,108	6,511,581	12,817,479	12,758,689	(58,790)	-0.46%
5706	Dept Of Natural Resources & Conservation	16,489,400	17,643,761	23,162,283	23,480,340	34,133,161	46,642,623	12,509,462	36.65%
5801	Department Of Revenue	549,014	553,163	625,818	642,827	1,102,177	1,268,645	166,468	15.10%
6101	Department Of Administration	3,312,150	4,074,101	5,186,865	5,413,616	7,386,251	10,600,481	3,214,230	43.52%
6106	Mt Consensus Council	239,800	273,341	252,407	259,655	513,141	512,062	(1,079)	-0.21%
6201	Department Of Agriculture	7,578,716	8,795,144	9,583,074	9,759,954	16,373,860	19,343,028	2,969,168	18.13%
6401	Department Of Corrections	2,084,959	2,602,923	2,723,117	2,715,268	4,687,882	5,438,385	750,503	16.01%
6501	Department Of Commerce	1,622,888	2,902,659	3,676,560	2,004,730	4,525,547	5,681,290	1,155,743	25.54%
6602	Department Of Labor & Industry	24,912,507	26,686,355	30,490,387	31,611,701	51,598,862	62,102,088	10,503,226	20.36%
6701	Department Of Military Affairs	542,203	1,300,645	1,089,160	1,093,765	1,842,848	2,182,925	340,077	18.45%
6901	Dept Of Public Health & Human Services	36,553,605	49,641,208	89,115,514	88,885,140	86,194,813	178,000,654	91,805,841	106.51%
Total		\$448,917,443	\$544,108,685	\$556,070,925	\$555,369,722	\$993,026,128	\$1,111,440,647	\$118,414,519	11.92%



## FEDERAL SPECIAL REVENUE

As defined in 17-2-102, MCA, the federal special fund "consists of money deposited in the treasury from federal sources, including trust income, that is used for the operation of state government."

Federal revenue increases by \$369.6 million, or 12.8 percent. As shown in the table, the increase is spread throughout state government, but the Department of Public Health and Human Services receives almost \$306 million, or over 82 percent of the increase. The major factors causing the increase in federal funds are:

- o Caseload growth, service utilization, and inflation, particularly in Medicaid, food stamps, childcare, and TANF
- o Provider rate increases (including an expansion in voluntary hospital and nursing home bed tax assessments used to match federal funds) and direct care worker wage increases
- o Service expansions, in large part through Medicaid redesign
- o New or expanded categorical grants

These increases are partially offset by a reduction in the federal Medicaid participation rate. Within other agencies of state government, increases in federal funds are due to:

- o Increased activity and/or grant awards in several agencies, most notably the Office of Public Instruction and environmental/wildlife agencies
- o Addition of authority to implement the Help America Vote Act in the Secretary of State's Office
- o Increased student loan volume in the Montana University System

Figure 7  
Federal Special Revenue Fund Comparison  
05 Biennium Versus Legislative Budget 07 Biennium

Agcy Code	Agency Name	Adjusted Expenditures Fiscal 2004	Adjusted Authorized Fiscal 2005	Total Leg. Budget Fiscal 2006	Total Leg. Budget Fiscal 2007	Total Adjusted Fiscal 04-05	Total Leg. Budget Fiscal 06-07	Difference 07 Biennium - 05 Biennium	% Change 05 Biennium 07 Biennium
2110	Judicial Branch	\$136,150	\$209,161	\$694,543	\$697,592	\$345,311	\$1,392,135	\$1,046,824	303.15%
3101	Governor's Office	110,377	2,110,922	20,458	21,202	2,221,299	41,660	(2,179,639)	-98.12%
3201	Secretary Of State's Office	0	0	5,469,529	5,556,936	0	11,026,465	11,026,465	
3401	State Auditor's Office	0	0	0	0	0	0	0	
3501	Office Of Public Instruction	128,186,361	150,109,721	145,551,937	152,956,922	278,296,082	298,508,359	20,212,777	7.26%
4107	Crime Control Division	8,896,110	15,412,436	13,598,095	13,611,023	24,308,546	27,209,118	2,900,572	11.93%
4110	Department Of Justice	2,786,344	3,247,260	2,588,366	1,950,675	6,033,604	4,539,041	(1,494,563)	-24.77%
4201	Public Service Regulation	13,732	13,980	14,400	15,446	27,712	29,846	2,134	7.70%
5101	Board Of Public Education	0	0	0	0	0	0	0	
5102	Commissioner Of Higher Education	33,020,086	54,168,298	44,850,080	47,138,319	87,188,384	91,988,399	4,800,015	5.51%
5113	School For The Deaf & Blind	96,696	96,696	102,865	102,865	193,392	205,730	12,338	6.38%
5114	Montana Arts Council	579,984	621,587	621,802	628,210	1,201,571	1,250,012	48,441	4.03%
5115	Montana State Library	757,888	1,253,505	1,180,694	780,694	2,011,393	1,961,388	(50,005)	-2.49%
5117	Montana Historical Society	720,896	755,849	795,158	800,226	1,476,745	1,595,384	118,639	8.03%
5201	Department Of Fish, Wildlife & Parks	14,941,052	15,456,384	21,870,835	19,009,402	30,397,436	40,880,237	10,482,801	34.49%
5301	Department Of Environmental Quality	20,460,991	22,376,065	30,839,375	27,104,708	42,837,056	57,944,083	15,107,027	35.27%
5401	Department Of Transportation	253,567,401	384,540,233	316,040,598	314,552,095	638,107,634	630,592,693	(7,514,941)	-1.18%
5603	Department Of Livestock	1,277,919	1,598,820	1,505,073	1,537,224	2,876,739	3,042,297	165,558	5.76%
5706	Dept Of Natural Resources & Conservation	1,764,840	1,863,030	2,012,396	2,065,958	3,627,870	4,078,354	450,484	12.42%
5801	Department Of Revenue	2,362,285	2,184,473	302,781	313,092	4,546,758	615,873	(3,930,885)	-86.45%
6101	Department Of Administration	1,049,961	1,966,933	1,546,361	1,554,956	3,016,894	3,101,317	84,423	2.80%
6201	Department Of Agriculture	827,084	3,312,907	5,101,994	1,525,445	4,139,991	6,627,439	2,487,448	60.08%
6401	Department Of Corrections	228,677	497,053	554,852	554,852	725,730	1,109,704	383,974	52.91%
6501	Department Of Commerce	16,498,731	13,933,825	18,313,873	18,371,660	30,432,556	36,685,533	6,252,977	20.55%
6602	Department Of Labor & Industry	33,982,053	38,253,265	36,716,744	37,004,477	72,235,318	73,721,221	1,485,903	2.06%
6701	Department Of Military Affairs	10,346,421	13,147,135	12,489,387	12,753,527	23,493,556	25,242,914	1,749,358	7.45%
6901	Dept Of Public Health & Human Services	782,469,861	845,624,148	942,440,260	991,637,906	1,628,094,009	1,934,078,166	305,984,157	18.72%
Total		\$1,315,081,900	\$1,572,753,686	\$1,605,222,456	\$1,652,245,412	\$2,887,835,586	\$3,257,467,868	\$369,632,282	12.80%

## PROPRIETARY FUNDS

As defined in 17-2-102, MCA, proprietary funds are designated as either enterprise or internal service funds. Enterprise funds "account for operations: (a) that are financed and operated in a manner similar to private business enterprises whenever the intent of the legislature is that costs (i.e. expenses, including depreciation) of providing goods or services to that general public on a continuing basis are to be financed or recovered primarily through user charges; or (b) whenever the legislature has decided that periodic determination of revenue earned, expenses incurred, or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes." Internal service funds "account for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost reimbursed basis."

Statute does not require that most proprietary funds be appropriated. Therefore, any increases in the programs supported with these proprietary funds are not reflected in the table.

Proprietary funds show an overall increase of \$0.9 million, or 3.4 percent, mainly due to the addition of funds for completion of a gambling automated accounting and reporting system.

**Figure 8**  
**Proprietary Fund Comparison**  
**05 Biennium Versus Legislative Budget 07 Biennium**

Agcy Code	Agency Name	Adjusted Expenditures Fiscal 2004	Adjusted Authorized Fiscal 2005	Total Leg. Budget Fiscal 2006	Total Leg. Budget Fiscal 2007	Total Adjusted Fiscal 04-05	Total Leg. Budget Fiscal 06-07	Difference 07 Biennium - 05 Biennium	% Change 05 Biennium 07 Biennium
4110	Department of Justice	\$810,037	\$821,848	\$1,663,702	\$1,470,631	\$1,631,885	\$3,134,333	\$1,502,448	92.07%
5117	Historical Society	828,812	875,378	971,491	983,298	1,704,190	1,954,789	250,599	14.70%
5801	Department of Revenue	2,003,783	1,983,452	2,160,366	2,232,182	3,987,235	4,392,548	405,313	10.17%
6101	Department of Administration	8,404,704	7,420,334	7,545,111	7,609,902	15,825,038	15,155,013	(670,025)	-4.23%
6201	MT Dept of Agriculture	285,518	328,770	377,677	396,628	614,288	774,305	160,017	26.05%
6401	Dept of Corrections	462,573	549,311	492,617	494,243	1,011,884	986,860	(25,024)	-2.47%
6602	Labor & Industry	<u>61,045</u>	<u>864,255</u>	<u>82,127</u>	<u>84,254</u>	<u>925,300</u>	<u>166,381</u>	<u>(758,919)</u>	<u>-82.02%</u>
Total		\$12,856,472	\$12,843,348	\$13,293,091	\$13,271,138	\$25,699,820	\$26,564,229	\$864,409	3.36%

## ALL FUNDS

The final comparison table is a composite by agency of the preceding tables, and shows an increase of \$831.6 million, or 13.4 percent.

Agency Code	Agency Name	Adjusted Expenditures Fiscal 2004	Adjusted Authorized Fiscal 2005	Total Leg Budget Fiscal 2006	Total Leg. Budget Fiscal 2007	Total Adjusted Fiscal 04-05	Total Leg Budget Fiscal 06-07	Difference 07 Biennium - 05 Biennium	% Change 05 Biennium 07 Biennium
1104	Legislative Branch	\$9,146,661	\$11,017,674	\$10,782,438	\$10,590,354	\$20,164,335	\$21,372,792	\$1,208,457	5.99%
1112	Consumer Council	1,297,083	1,348,733	1,422,501	1,451,004	2,645,816	2,873,505	227,689	8.61%
2110	Judicial Branch	33,546,314	31,282,359	40,900,227	32,867,029	64,828,673	73,767,256	8,938,583	13.79%
3101	Governor's Office	4,382,294	17,001,602	5,799,705	5,868,940	21,383,896	11,668,645	(9,715,251)	-45.43%
3201	Secretary Of State's Office	0	0	5,469,529	5,556,936	0	11,026,465	11,026,465	
3202	Commissioner Of Political Practices	309,317	323,573	369,748	368,159	632,890	737,907	105,017	16.59%
3401	State Auditor's Office	4,402,828	5,027,115	8,071,555	15,279,208	9,429,943	23,350,763	13,920,820	147.62%
3501	Office Of Public Instruction	643,215,358	665,950,180	702,574,052	713,342,872	1,309,165,538	1,415,916,924	106,751,386	8.15%
4107	Crime Control Division	10,519,862	17,063,171	15,431,758	15,473,232	27,583,033	30,904,990	3,321,957	12.04%
4110	Department Of Justice	49,939,001	57,980,839	61,688,475	57,113,645	107,919,840	118,802,120	10,882,280	10.08%
4201	Public Service Regulation	2,683,270	3,260,204	2,954,609	2,999,153	5,943,474	5,953,762	10,288	0.17%
5101	Board Of Public Education	294,094	355,281	370,526	377,097	649,375	747,623	98,248	15.13%
5102	Commissioner Of Higher Education	186,899,789	204,604,598	214,101,141	221,272,069	391,504,387	435,373,210	43,868,823	11.21%
5113	School For The Deaf & Blind	3,846,684	3,946,566	4,870,952	5,016,788	7,793,250	9,887,740	2,094,490	26.88%
5114	Montana Arts Council	1,025,035	1,068,166	1,317,481	1,212,460	2,093,201	2,529,941	436,740	20.86%
5115	Montana State Library	3,276,090	3,990,958	4,148,449	3,524,289	7,267,048	7,672,738	405,690	5.58%
5117	Montana Historical Society	3,782,444	3,949,088	4,022,191	4,044,606	7,731,532	8,066,797	335,265	4.34%
5201	Department Of Fish, Wildlife & Parks	52,390,256	55,403,538	65,092,836	63,520,701	107,793,794	128,613,537	20,819,743	19.31%
5301	Department Of Environmental Quality	41,344,127	73,411,234	65,422,723	52,365,991	114,755,361	117,788,714	3,033,353	2.64%
5401	Department Of Transportation	490,729,467	642,335,654	557,453,235	560,095,160	1,133,065,121	1,117,548,395	(15,516,726)	-1.37%
5603	Department Of Livestock	7,426,758	9,321,723	8,361,008	8,676,154	16,748,481	17,037,162	288,681	1.72%
5706	Dept Of Natural Resources & Conservation	35,079,769	37,001,514	44,809,035	45,633,020	72,081,283	90,442,055	18,360,772	25.47%
5801	Department Of Revenue	34,194,441	31,790,708	42,548,750	41,510,059	65,985,149	84,058,809	18,073,660	27.39%
6101	Department Of Administration	16,640,915	17,530,098	22,223,624	19,139,545	34,171,013	41,363,169	7,192,156	21.05%
6102	Appellate Defender	186,615	186,847	216,959	0	373,462	216,959	(156,503)	-41.91%
6106	Mt Consensus Council	239,800	273,341	321,447	328,484	513,141	649,931	136,790	26.66%
6108	Office Of The Public Defender	0	0	527,729	14,134,117	0	14,661,846	14,661,846	
6201	Department Of Agriculture	9,289,453	13,065,052	15,916,800	12,390,468	22,354,505	28,307,268	5,952,763	26.63%
6401	Department Of Corrections	106,795,496	110,277,987	123,750,315	128,478,432	217,073,483	252,228,747	35,155,264	16.20%
6501	Department Of Commerce	19,686,930	18,420,509	25,955,220	24,401,730	38,107,439	50,356,950	12,249,511	32.14%
6602	Department Of Labor & Industry	60,111,130	67,002,282	68,931,349	70,409,034	127,113,412	139,340,383	12,226,971	9.62%
6701	Department Of Military Affairs	15,000,182	18,642,552	18,372,897	18,663,865	33,642,734	37,036,762	3,394,028	10.09%
6901	Dept Of Public Health & Human Services	1,067,472,055	1,167,327,966	1,342,254,113	1,394,378,692	2,234,800,021	2,736,632,805	501,832,784	22.46%
Total		\$2,915,153,518	\$3,290,161,112	\$3,486,453,377	\$3,550,483,293	\$6,205,314,630	\$7,036,936,670	\$831,622,040	13.40%



# OTHER BUDGET OR FISCAL ACTIONS







## OTHER BUDGET OR FISCAL ACTIONS

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### INTRODUCTION

The "Other Budget or Fiscal Actions" section discusses several issues of either statewide or multi-agency fiscal impact. It addresses significant issues contained in HB 2, other cat and dog bills, and/or statutory appropriations, as well as issues not related to any specific legislation. The issues discussed in the next several pages are highlighted below:

- **State Employee Pay Plan (HB 447).** The legislature passed a pay plan (HB 447) that includes two elements: 1) an increase in employer contributions for health insurance; and 2) and pay increases for each year of the biennium.
- **State Employees – FTE Summary.** HB 2 provides funding for a total 11,533.57 FTE state employees in FY 2006 and 11,697.52 in FY 2007, excluding the units of the Montana University System, for an increase of 3.7 percent.
- **Vacancy Savings.** The legislature accepted the executive's recommendation to apply a 4 percent vacancy savings rates, with a few exceptions.
- **Public School Funding.** The Supreme Court issued their final order in March 2005 affirming the District Court's decision (Sherlock) that the legislature provide a remedy to the school funding problem.
- **Long Range Planning Summary.** The 2005 Legislature approved \$473 million of grants, loans, and capital projects in the Long Range Planning (LRP) program, more than twice the funding appropriated in these programs in the 2005 biennium.
- **St. Mary Facility Rehabilitation.** The legislature took steps to get the rehabilitation work started, including appropriating nearly \$12 million for the project.
- **Other Appropriation Bills.** Beside HB 2, several bills were enacted that appropriated \$39.5 million in general fund, \$227.7 million in state special revenue, and \$137.8 million in other funds.
- **Status of Tobacco Settlement Funds.** Payment of settlement funds of \$42.1 million are expected for the 2007 biennium and interest on the tobacco trust will generate \$7.1 million.
- **Cigarette and Tobacco Tax Funds: Initiative-149.** One of the most significant policy and appropriation issues considered by the 2005 Legislature was implementation of I-149.
- **Office of State Public Defender.** The 2005 Legislature passed SB 146, which established the Office of State Public Defender.
- **Fiscal 2005 Supplemental Appropriations.** The legislature provided state agencies with an additional \$55.3 million general fund in FY 2005.
- **Fund Balance Adequacy/Reserves.** The legislature adopted a budget that includes an ending fund balance of \$76 million.
- **Federal Jobs and Growth Tax Relief Funds.** Federal funding that was provided to assist Montana through a period of severe revenue shortfalls allowed the state to maintain many services that might otherwise have been cut. The 2005 Legislature restored state funding for many of these programs.

- **Information Technology Major Projects.** The legislature approved funding for several information technology projects.
- **Economic Development.** The Schweitzer administration advocated economic and community development as a major priority of the 2005 legislative session.
- **Pension Funds – Unfunded Liabilities.** The Montana Constitution requires that the public retirement systems be funded on an actuarially sound basis.
- **General Fund/State Special Revenue Fund Statutory Appropriations.** Statutory appropriations are a special kind of legislative appropriation. Unlike temporary appropriations that expire in two years (such as those in the general appropriations act), statutory appropriations are, as their name suggests, in statute and are not part of the biennial budgeting process.
- **General Fund Non-budgeted Transfers.** Like statutory appropriations, transfers and their authorizations are in statute and are not part of the biennial budgeting process, yet they affect the amount of money available for the legislature to appropriate for specific programs.
- **Proprietary Funds and Rate-Setting.** There are two types of proprietary funds: 1) internal service funds; and 2) enterprise funds. The legislature sets the rates for internal service funds.
- **Fund Switches.** General fund appropriations increased \$67.6 million as a result of funding switches.
- **Fee Changes.** This section lists the impact of fee changes or new fees either adopted by the legislature or assumed in the budgeting process.
- **Legislative Interim Studies.** The legislature approved 24 interim studies (in bills or resolutions) that have been assigned to various interim committees.
- **Other Major Funds.**
  - Highways Special Revenue Account –The account will continue to experience a negative cash flow as expenditures are projected to exceed revenues through the 2009 biennium.
  - Resource Indemnity Trust – In February of 2002, the Governor certified that the balance of the RIT trust had exceeded the \$100 million threshold. Consequently, the trust no longer receives revenue. Interest earnings are used as a funding source for several funds, and the amount of revenue in excess of the \$100 million corpus is available for appropriation.
  - Coal Severance Tax Shared Account – A small number of programs receive revenue from a portion of the coal severance tax. The level of funding from this source has varied in recent actions.



## STATE EMPLOYEE PAY PLAN

The 2005 legislature passed HB 447, which includes a pay plan with two primary elements:

- A salary increase of 3.5 percent (or \$1,005, whichever is greater) beginning October 1, 2005 and a further 4.0 percent (or \$1,118, whichever is greater) increase beginning October 1, 2006.
- An increase in insurance of \$46 on January 1, 2006 and a further \$51 on January 1, 2007.

The following figure shows the general fund and other funds added by type of adjustment.

Figure 1

Pay Plan by Type of Adjustment  
2007 Biennium

Type of Adjustment	General Fund	Other Funds	Total Funds
Increase in Pay Schedules*	\$27,356,311	\$26,830,670	\$54,186,981
Insurance Increase*	8,679,274	7,441,093	16,120,367
Training	75,000	-	75,000
Contingency	1,500,000	3,000,000	4,500,000
<b>Total</b>	<b>\$37,610,585</b>	<b>\$37,271,763</b>	<b>\$74,882,348</b>

\*Approximate

The following figure shows the increase by year and by entity responsible for distributing the pay plan to individual agencies.

Figure 2

Pay Plan Adjustments by Entity  
2007 Biennium

Entity	-- Fiscal 2006 --			-- Fiscal 2007 --			-- 2007 Biennium --		
	General Fund	Other Funds	Total Funds	General Fund	Other Funds	Total Funds	General Fund	Other Funds	Total Funds
Legislative Branch	\$209,282	\$18,179	\$227,461	\$538,330	\$46,934	\$585,264	\$747,612	\$65,113	\$812,725
Consumer Counsel	0	11,734	11,734	0	30,024	30,024	0	41,758	41,758
Judicial Branch	599,262	25,598	624,860	1,547,500	65,278	1,612,778	2,146,762	90,876	2,237,638
Executive Branch	5,613,599	9,336,466	14,950,065	14,700,424	24,318,806	39,019,230	20,314,023	33,655,272	53,969,295
University System	3,820,187	125,024	3,945,211	9,007,001	293,720	9,300,721	12,827,188	418,744	13,245,932
Subtotal	\$10,242,330	\$9,517,001	\$19,759,331	\$25,793,255	\$24,754,762	\$50,548,017	\$36,035,585	\$34,271,763	\$70,307,348
Training*	\$75,000	\$0	\$75,000	\$0	\$0	\$0	\$75,000	\$0	\$75,000
Contingency*	1,500,000	3,000,000	4,500,000	0	0	0	1,500,000	3,000,000	4,500,000
<b>Total</b>	<b>\$11,817,330</b>	<b>\$12,517,001</b>	<b>\$24,334,331</b>	<b>\$25,793,255</b>	<b>\$24,754,762</b>	<b>\$50,548,017</b>	<b>\$37,610,585</b>	<b>\$37,271,763</b>	<b>\$74,882,348</b>

\*Biennial appropriation to the Office of Budget and Program Planning for distribution.

Although these funds were appropriated in HB 447, pay plan allocations by program and agency are included in the program and agency tables for each agency in Volumes 3 and 4 of this report.

## PER HOUR SALARY INCREASE

The legislature provides a 3.5 percent increase in salary for most employees beginning on October 1, 2005, with a further 4.0 percent increase beginning October 1, 2006. In order to provide an additional increase to employees lower on the pay plan scale, the legislature provided a minimum increase of

\$1,005 in FY 2006 and an additional \$1,118 in FY 2007. Consequently, if an employee has a current salary of about \$28,700 or less on October 1, 2005, they will receive the minimum increase rather than a 3.5 percent increase. For example, an employee making \$20,000 would receive an increase of \$1,005 on October 1, 2005, or about 5.0 percent, and a further increase of \$1,118, or an additional 5.3 percent, on October 1, 2006.

Because the increase is only in effect for a portion of the biennium, the 2009 biennium cost will be about \$45.3 million general fund and \$43.8 million other funds.

## **INSURANCE INCREASE**

The legislature added \$46 per month for calendar year 2006 and an additional \$51 per month for calendar year 2007 for employee insurance benefits. Employer contributions will total \$506 on January 1, 2006 and \$557 on January 1, 2007. The university system increase begins on the previous July 1 each year.

Because the cost of the increase is phased-in over the biennium, the 2009 biennium cost will be about \$15.3 million general fund and \$15.1 million other funds.

## **TRAINING**

The legislature provided \$75,000 general fund over the biennium to continue a labor-management initiative begun by the 2001 Legislature. The initiative is designed to provide professional development for management and other employees involved with union activities in the areas of collective bargaining and administration of labor contracts.

## **PERSONAL SERVICES CONTINGENCY**

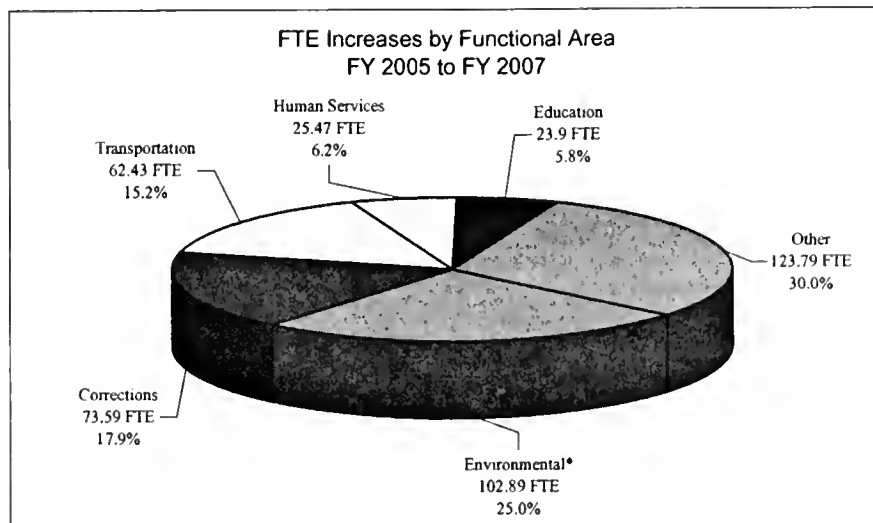
In keeping with the practice of the last several biennia, the legislature provided a contingency pool to the executive to distribute to agencies unable to meet vacancy savings targets. General fund of \$1.5 million and other funds of \$3.0 million over the biennium were appropriated to the Office of Budget and Program Planning.

## STATE EMPLOYEES FTE SUMMARY

HB 2 provides funding for a total 11,533.57 FTE state employees in FY 2006 and 11,697.52 in FY 2007, excluding the units of the Montana University System. These totals represent an increase of 412.07 FTE (3.7 percent) in FY 2007 over the FY 2005 level used for budgeting purposes.

The overall change in statewide FTE is the result of several actions. The following figure shows the allocation of the new FTE, by general type of function. Please note that the change in FTE in the Department of Transportation includes a transfer of 12.50 FTE from the Department of Justice due to reorganization. Within the "other" category, the bulk of the increase (and 20.8 percent of the total increase) is to staff the new Office of the Public Defender, which not only receives existing state employees from the Judiciary and the Appellate Defender, but new employees and transfers from local governments.

Figure 3



The following figure: 1) provides a listing of all FTE for which funding was appropriated in HB 2 in the 2007 biennium; and 2) compares this total to the 2005 biennium total. Please note that the listing does not include any FTE that may have been added in the 2005 biennium in budget amendments or other action, or funded through language or statutory appropriations. Because the legislature does not appropriate funding specifically for FTE in the Montana University System except in the Office of the Commissioner of Higher Education, those FTE are not listed in the main part of the table. Also, please note that the table does not include any FTE that may be added as a result of the passage of other legislation.

As shown in the figure, most agencies of state government received an increase in FTE, with the largest increases occurring in the three major environmental agencies, corrections, and transportation.

Figure 4

Total State Employees General Appropriations Act\*  
2005 Biennium to 2007 Biennium

Section/Agency	Actual Fiscal 2004	Approp Fiscal 2005	Approp Fiscal 2006	Approp Fiscal 2007	FY05-FY07 Difference	Percent Increase
<b>Section A - General Government**</b>						
Legislative Branch	124.77	129.94	124.97	130.14	0.20	0.2%
Consumer Counsel	5.04	5.04	5.54	5.54	0.50	9.9%
Judiciary	374.68	374.68	391.13	392.13	17.45	4.7%
Governor's Office	60.00	56.00	59.07	59.07	3.07	5.5%
Commissioner of Political Practices	5.00	5.00	5.00	5.00	0.00	0.0%
State Auditor	71.50	71.50	76.50	76.50	5.00	7.0%
Transportation	2,176.13	2,176.13	2,174.16	2,238.56	62.43	2.9%
Revenue	609.53	643.53	612.08	615.53	-28.00	-4.4%
Administration	143.07	151.07	149.47	149.72	-1.35	-0.9%
Appellate Defender	3.00	3.00	3.00	0.00	-3.00	--
Montana Censensus Council	2.00	2.00	2.50	2.50	0.50	25.0%
Office of the Public Defender	0.00	0.00	5.50	90.25	90.25	--
<b>Total Section A</b>	<b>3,574.72</b>	<b>3,617.89</b>	<b>3,608.92</b>	<b>3,764.94</b>	<b>147.05</b>	<b>4.1%</b>
<b>Section B - Health and Human Services</b>						
Public Health and Human Services	2,755.01	2,761.99	2,783.46	2,787.46	25.47	0.9%
<b>Section C - Natural Resources and Commerce</b>						
Fish, Wildlife, and Parks	623.44	625.48	659.85	661.85	36.37	5.8%
Environmental Quality	355.03	356.03	366.78	366.78	10.75	3.0%
Livestock	145.49	145.49	135.99	135.99	-9.50	-6.5%
Natural Resources and Conservation	486.24	486.26	542.03	542.03	55.77	11.5%
Agriculture	111.54	111.55	116.04	116.54	4.99	4.5%
Commerce	47.00	47.00	46.66	46.66	-0.34	-0.7%
<b>Total Section C</b>	<b>1,768.74</b>	<b>1,771.81</b>	<b>1,867.35</b>	<b>1,869.85</b>	<b>98.04</b>	<b>5.5%</b>
<b>Section D - Corrections and Public Safety</b>						
Board of Crime Control	19.00	19.00	20.00	20.00	1.00	5.3%
Justice	719.35	711.60	730.22	727.10	15.50	2.2%
Public Service Commission	39.00	39.00	39.00	39.00	0.00	0.0%
Corrections	1,095.05	1,095.80	1,165.39	1,169.39	73.59	6.7%
Labor and Industry	707.48	705.24	726.58	726.58	21.34	3.0%
Military Affairs	168.90	168.90	172.90	172.90	4.00	2.4%
<b>Total Section D</b>	<b>2,748.78</b>	<b>2,739.54</b>	<b>2,854.09</b>	<b>2,854.97</b>	<b>115.43</b>	<b>4.2%</b>
<b>Section E - Education and Cultural Resources</b>						
Office of Public Instruction	125.31	125.31	138.66	139.21	13.90	11.1%
Board of Public Education	4.00	4.00	4.00	4.00	0.00	0.0%
School for the Deaf and Blind	81.68	81.68	80.95	80.95	-0.73	-0.9%
Commissioner of Higher Education	90.05	90.05	100.05	100.05	10.00	11.1%
Arts Council	7.00	7.00	7.00	7.00	0.00	0.0%
State Library Commission	28.50	28.50	29.50	29.50	1.00	3.5%
Historical Society	57.68	57.68	59.59	59.59	1.91	3.3%
<b>Total Section E</b>	<b>394.22</b>	<b>394.22</b>	<b>419.75</b>	<b>420.30</b>	<b>26.08</b>	<b>6.6%</b>
<b>Total - All Sections</b>	<b>11,241.47</b>	<b>11,285.45</b>	<b>11,533.57</b>	<b>11,697.52</b>	<b>412.07</b>	<b>3.7%</b>
*Does not include the units of the Montana University System.						
**Secretary of State FTE are all off-budget (proprietary fund)						

The major changes include the following factors.

- Staff additions in environmental related agencies (Departments of Fish, Wildlife, and Parks - FWP; Environmental Quality - DEQ, and Natural Resources and Conservation - DNRC) are for a number of purposes, including:
- Replacement of contract services with FTE for automated licensing in FWP, which adds 16.00 FTE
- The addition of 9.00 FTE in DEQ for total maximum daily load (TMDL) activities
- Accelerated water rights adjudication in DNRC, which adds 39.00 FTE
- An additional 7.79 FTE in DNRC for various fire related activities, including additional helitack capabilities
- Correctional staff increases due to:
- The addition of 15.00 FTE new probation and parole officers
- An additional 56.64 FTE to staff and operate a revocation center at Montana State Prison
- The Office of the Public Defender in FY 2007 is staffed not only with FTE transferred or absorbed from the Judiciary and the Appellate Defender, but with 20.00 new FTE and 65.75 FTE transferred from local governments
- The Department of Transportation adds staff for the construction plan, and to integrate financial management systems
- The major factors causing the net increase in the Department of Public Health and Human Services change in staff are:
- Enhancement of adult and child mental health services
- Enhancement of administration of Medicaid services and implementation of federal requirements to evaluate the accuracy of Medicaid payments
- Administration of the new prescription drug program
- Reduction in FTE at the Montana Developmental Center as residents are moved to community settings
- The Judiciary received additional FTE to add a judgeship to Gallatin County and to accelerate the water adjudication process
- 8.00 FTE was added to the Department of Revenue for compliance audit work
- FTE in the Department of Livestock are dropping due to reductions in revenues due primarily to the continuing drought conditions in the state

There were four reorganizations that reallocated current staff among different agencies:

- Unemployment insurance tax collection activities, including 30.00 FTE, were returned to the Department of Labor and Industry from the Department of Revenue in the 2005 biennium. The transfer is reflected in the FY 2004 FTE, while the FY 2005 FTE continues to reflect the original appropriation.
- The Motor Carriers Safety Assistance Program, including 12.50 FTE, was transferred to the Department of Transportation from the Department of Justice.
- The Office of Consumer Protection was transferred from the Department of Administration to the Department of Justice. The transfer included 8.75 FTE.
- The Office of the Public Defender received 1.50 FTE from the Judiciary and absorbed 3.00 FTE with the Appellate Defender.

## VACANCY SAVINGS

Vacancy savings is the difference between the cost of fully funding a position for the entire year and the actual cost of employee positions during that period. A vacancy savings reduction, usually a percentage reduction from full funding, has been applied to budgets in prior years in anticipation that staff turnover and vacancies often result in lower personal services expenditures than appropriated.

### LEGISLATIVE VACANCY SAVINGS

The Executive Budget recommended a 4.0 percent vacancy savings rate on all personal services (including insurance) for all agencies except:

- Those with fewer than 20 FTE, except for the Montana Consensus Council which was transferred from the Governor's Office to being attached to the Department of Administration;
- University system faculty;
- Elected officials;
- The legislative branch; and
- The judicial branch.

The final legislative budget incorporated the 4.0 percent vacancy savings, but made some additional exceptions from how vacancy savings has been applied in recent years:

- The Montana Highway Patrol was exempted by a provision in HB 35
- The Field Services Program in the Child and Family Services Division, Department of Public Health and Human Services has vacancy savings applied at 2 percent instead of 4 percent
- The Student Services Program and Education Program of the Montana School for the Deaf and Blind were exempted
- The Legislative Audit Division was reduced \$112,369 in state special revenue as vacancy savings reduction

Total budget reductions as a result of the imposition of vacancy savings are about \$16.8 million general fund and \$24.2 million other funds over the 2007 biennium, excluding the university system. Vacancy savings is a factor in calculating the "lump sum" distribution of state funding for the university units, but ceases to be a major factor in actual university budgets when state funding and tuition levels determined by the Board of Regents are combined.

In addition, certain personal services reductions that were taken in the 2003 session were continued by the 2005 Legislature for the Department of Public Health and Human Services (DPHHS). While in other agencies, these reductions were taken as a reduction of FTE and dollars, in DPHHS the FTE authority remains but the dollars were taken. This has the same effect as applying vacancy savings and results in an additional reduction for DPHHS of \$1.4 million general fund and \$0.5 million other funds. This additional vacancy savings for DPHHS is the equivalent of 0.7 percent.

### PERSONAL SERVICES CONTINGENCY

Vacancy savings are assessed against personal services budgets on the assumption that actual vacancy savings will be sufficient to cover the reduction. Sometimes, agencies don't generate enough actual vacancy savings, resulting in a shortfall.

In order to assist agencies that have insufficient authority to meet all personal services costs in the 2007 biennium, the legislature provided a contingency fund totaling \$1.5 million general fund and \$3.0 million other funds. Agencies must apply to the Office of Budget and Program Planning for these funds.

## PUBLIC SCHOOL FUNDING

The 59th Legislature faced a daunting challenge. In response to a December 2004 Supreme Court preliminary decision, the Legislature was faced with the requirement to: 1) define a basic system of quality schools; 2) “cost out” the resources required to deliver a basic system of quality education; 3) develop a funding formula to distribute budget authority among school districts; and 4) provide an adequate revenue stream to pay for the funding formula. The Supreme Court issued their final order in March 2005 affirming the District Court's decision (Sherlock) that the legislature provide a remedy to the school funding problem by October 1, 2005.

The 59th Legislature was successful in achieving the first objective, but not the last three. In passing SB 152, the legislature created a definition of a basic quality school system that includes recognition of the resources required and the population served. An interim committee created by SB 525 will conduct the cost study, develop the funding formula, and recommend revenue changes in preparation for a special session on school funding in December 2005.

### KEY LEGISLATION

#### *House Bill 63*

The new school funding system that will be created in the special session may affect state spending on schools as early as FY 2007. In the meantime, the 59th Legislature appropriated money for schools for both years of the 2007 biennium by passing HB 63. HB 63 did the following:

- Increased the basic and per-ANB entitlements for both elementary and high school for inflation by 2.1 percent in FY 2006 and 2.10 percent in FY 2007
- Increased the per-ANB entitlements for elementary by \$250 and for high school by \$100 in each year
- Allows unified elementary and high school districts to share cash reappropriated

The percent increase above FY 2004 levels in Base Aid due to HB 63 is 7.2 percent in FY 2006 and 8.0 percent in FY 2007.

Compared with state spending on schools in FY 2004, HB 63 increased state spending in the 2007 biennium by \$66.8 million in additional Base Aid. Other bills, described below, reduced this by \$0.3 million.

#### *House Bill 2*

In addition to increases in Base Aid, the legislature in HB 2 provided increases for the following areas of aid to schools:

- Increases in special education of \$8.1 million
- School facility increases of \$4.3 million
- Secondary vocational education and gifted and talented increases of \$0.8 million
- Indian Education For All grants to districts for information sharing with other districts - \$1.1 million
- Retirement GTB increases of \$2.0 million in Impact Aid districts to reflect SB 333, an act requiring state and local provision of retirement benefits for teachers whose salaries are paid for out of federal impact aid funds – which was in response to a federal court order disallowing the use of federal impact aid monies for teacher retirement costs

- o Other present law adjustments for transportation, HB 124 block grants and other, \$2.6 million

The figure below summarizes these changes by year. The table shows the impact of legislation on both the general fund and the guarantee account. The guarantee account and general fund shares are also shown.

Figure 5

## Legislative Changes in OPI for the 2007 Biennium

	Compared with FY04 Base Budget		
	FY06	FY07	Biennial
<b>OPI Agency</b>			
General Fund			
Indian Education for All Curriculum Development (4 FTE)	\$1,155,423	\$1,155,423	\$2,310,846
Student Education Information Data System (4 FTE)	2,455,026	370,974	2,826,000
Other OPI - Present Law and Statewide Adjustments	422,451	620,031	1,042,482
Total General Fund	<u>\$4,032,900</u>	<u>\$2,146,428</u>	<u>\$6,179,328</u>
Federal Monies (5.3 FTE)	\$3,017,721	\$3,501,935	\$6,519,656
State Special	<u>27,130</u>	<u>32,408</u>	<u>59,538</u>
Total OPI Agency	<u>\$7,077,751</u>	<u>\$5,680,771</u>	<u>\$12,758,522</u>
<b>Distribution to Schools</b>			
General Fund & Guarantee Account			
Base Aid Increase - HB 63			
\$250 per ANB Elementary, \$100 per ANB High School FY06, Three Year			
Averaging Both years, Inflation Both Years	\$32,476,900	\$36,283,700	\$68,760,600
Other Bills Affecting Base Aid	3,998	(338,802)	(334,804)
Special Education	3,638,367	4,480,534	8,118,901
School Facilities	2,128,400	2,128,400	4,256,800
Indian Education For All	550,000	550,000	1,100,000
Other Distribution to Schools (HB 124 BI Grants, Vo-Ed, Gifted & Talent)	<u>\$1,450,840</u>	<u>\$1,935,478</u>	<u>\$3,386,318</u>
Total General Fund & Guarantee Account	<u>\$40,248,505</u>	<u>\$45,039,310</u>	<u>\$85,287,815</u>
Federal Increases	\$14,347,855	\$21,268,626	\$35,616,481
Total Distribution to Schools	<u>\$54,596,360</u>	<u>\$66,307,936</u>	<u>\$120,904,296</u>
Guarantee Account Share of Base Aid	\$2,315,417	\$1,861,193	\$4,176,610
Total OPI Agency and Distribution - General Fund Share	<u>\$59,358,694</u>	<u>\$70,127,514</u>	<u>\$129,486,208</u>

In addition to the increase in state appropriations, the 59th Legislature increased federal appropriations to schools by \$35.6 million in the 2007 biennium as compared with FY 2004.

Also, in addition to the increases for schools, the legislature increased state general fund for OPI state level activities by \$6.2 million in the 2007 biennium compared with FY 2004. These increases were for development of a student information database (\$2.8 million), Indian Education for All (\$2.3 million) and other adjustments including the pay plan (\$1.1 million). The Indian Education For All program will develop curriculum and professional development tools for all students in Montana regarding the cultural heritage and history of Native Americans.

## Senate Bill 152

This legislation defines a basic system of free quality public elementary and secondary schools. This system shall contain at a minimum the educational program specified by the accreditation standards provided for in 20-7-111, MCA. The system will contain educational programs to provide for students with special needs, such as children with disabilities, at-risk students, students with limited English proficiency, American Indian students, and gifted and talented students. The system will employ qualified and effective teachers, administrators and staff, will contain facilities and distance learning



associated with the accreditation standards, transportation to and from school, provisions for assessments of students, and will preserve local control. The educationally relevant factors of the system will include the number of students in a district, needs of isolated and urban schools, needs of special needs and American Indian students, and the ability to attract and retain highly qualified educators.

SB 152 requires that by July 1, 2007, the legislature shall determine the costs of providing the basic system of quality education, establish a funding formula based on the definition that reflects the educationally relevant factors and that distributes the state's share equitably among school districts, and consolidates the budgetary fund structure. The legislature shall also conduct a study every 10 years to reassess the educational needs and costs of the system and incorporate the findings into the funding formula.

SB 152 also requires the Legislative Fiscal Division, in response to a request by the Education and Local Government interim committee, to provide analyses of proposed changes in the accreditation standards. The analyses will be provided to the committee and the office of budget and program planning. If the fiscal analyses of a proposal is found to have a substantial impact, the board of public education may not implement the standard until July 1 following the next legislative session.

### ***Senate Bill 525***

This legislation creates a quality schools interim committee to continue the work of the joint select committee on education funding. The joint select committee met many times during the session and received testimony by school officials regarding problems and potential solutions in Montana's schools. SB 525 requires that by December 1, 2005, the committee shall assess the educational needs of students served by the educational system, determine the costs of the system, determine the state's share of the cost of the system, and construct a funding formula based on SB 152, the assessment of needs, the educationally relevant factors, and all applicable state and federal laws. The funding formula must contain an inflation factor and must distribute the state share in an equitable manner. The committee is charged with consolidating the budgetary fund structure of school districts, examining the state's existing and projected financial resources as well as the needs and concerns of Montana's taxpayers and must prepare appropriate legislation. The committee may utilize staff from all branches of government and shall seek input from the educational community.

The members of the committee created by SB 525 are: 1) four members of the House of Representatives appointed by the speaker, 2) four members of the Senate appointed by the president, and 3) the following ex-officio nonvoting members: a) a representative from the Superintendent of Public Instruction, b) a representative of the Governors Office, and c) a representative of the Board of Public Education. On or before October 1, 2005, the committee must issue a report on the committee's preliminary findings and recommendations.

### ***Other Legislation***

Other bills that impact public education funding, either directly or indirectly, can be found at page E-2 of Volume 4 of the Legislative Fiscal Report 2007 Biennium.

## LONG-RANGE PLANNING SUMMARY

The 2005 Legislature approved \$473 million of grants, loans, and capital projects in the Long Range Planning (LRP) program, more than twice the funding appropriated in these programs in the 2005 biennium. The figure below summarizes the funding for each of the LRP programs. The amounts shown reflect the funding appropriated or authorized for projects. The marked increase in appropriations resulted in large part from several one-time general fund transfers and unusual appropriations in LRP programs. Specific descriptions of the unusual occurrences can be seen below, and more detailed information can be found in the Legislative Fiscal Report, Volume 4, Section F.

Figure 6

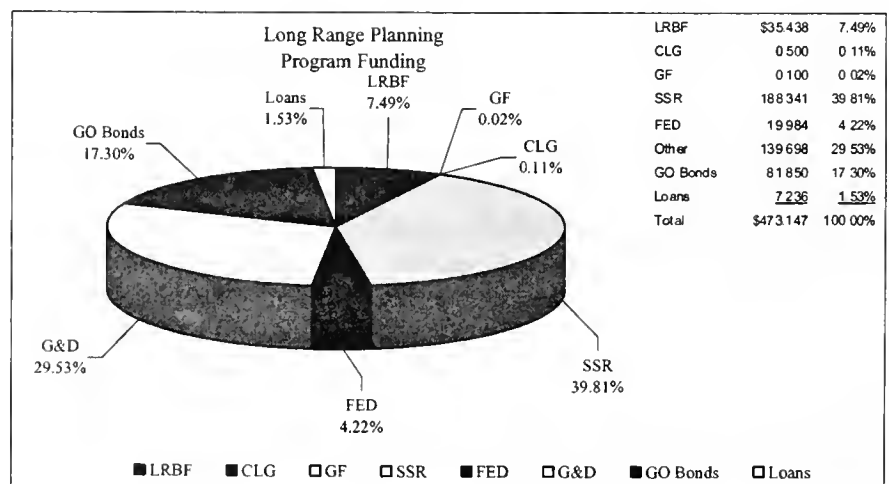
Legislative Action -- 2005 Session  
Long Range Planning Programs  
2007 Biennium (dollars in millions)

Bill #	Program	LRBF	CLG	GF	SSR	FED	G&D	GO Bonds	Loans	Total	GF OTO Trnsf
HB 5	LRBP and Other State Projects - Cash	\$35.4	\$0.5	-	\$160.7	\$20.0	\$139.7	-	-	\$356.3	\$30.1
HB 299	LRBP - Bonding	-	-	-	-	-	-	5.1	-	5.1	-
HB 540	LRBP and Other State Projects - Bonding	-	-	-	-	-	-	68.0	-	68.0	-
HB 6	Renewable Resource Grant Program	-	-	-	5.0	-	-	-	-	5.0	0.6
HB 8	Renewable Resource Loan Program	-	-	-	-	-	-	-	7.2	7.2	-
HB 7	Reclamation & Development Grant Program	-	-	-	4.9	-	-	-	-	4.9	-
HB 9	Cultural & Aesthetic Grant Program	-	-	0.1	0.8	-	-	-	-	0.9	3.4
HB 11	Treasure State Endowment Program	-	-	-	16.9	-	-	-	-	16.9	-
HB 11	Treasure State Regional Water System Grants	-	-	-	-	-	-	5.0	-	5.0	-
HB 12	State Building Energy Conservation Program	-	-	-	-	-	-	3.8	-	3.8	-
Total		\$35.4	\$0.5	\$0.1	\$188.3	\$20.0	\$139.7	\$81.9	\$7.2	\$473.1	\$34.1

LRBF = Long-Range Building Fund CLG = Capitol Land Grant G&D = Grants, Donations, Proprietary Funds, and Higher Education Funds GO = General Obligation

Funding for the LRP programs is derived from a number of different sources. The chart below shows the proportional breakdown of the funding for LRP. The largest source of LRP funding is state special revenue (SSR). Most SSR funds are appropriated to the Department of Transportation and the Department of Fish, Wildlife, and Parks in the Long-Range Building Program (LRBP). The Treasure State Endowment program also uses significant SSR. Another large funding source of LRP is captured in the "G&D" category, which consists of a combination of grants, donations, proprietary funds, and higher education funds. The size of this category can be attributed to the funding in the LRBP for Montana University projects. General fund makes up only 0.02 percent of the LRP appropriations.

Figure 7



## **LONG-RANGE BUILDING PROGRAM**

Total Long-Range Building Program (LRBP) appropriations for the 2007 biennium are \$275.7 million. Actual LRBP cash projects total \$222.6 million, and bond proceeds authorized for LRBP are \$53.1 million. HB 5 appropriates and authorizes a total of \$356.3 million. HB 299 and HB 540 appropriated a total of \$73.1 million in bond proceeds. The difference in these amounts are because several projects, unrelated to LRBP, were funded in HB 5 and HB 540. Among these was the US Highway 93 construction project funded in HB 5, \$133.8 million, and Department of Natural Resource and Conservation projects funded in HB 540, \$19.5 million.

Through the LRBP, the Fifty-ninth Legislature made some headway on the backlog of deferred maintenance, which has been an issue in the state for many years. The legislature approved a one-time general fund transfer of \$30.1 million to improve the maintenance status of state buildings. Additionally, the legislature appropriated funds to conduct a study to ascertain the state's needs in deferred maintenance and develop a more adequate mechanism for funding future deferred maintenance. HB 5 authorized 14 University System projects for construction of new buildings and additions and renovation to existing buildings across the state. Finally, one new state government-building project, renovation of Helena's Capitol Hill Mall for the Historical Society, received bonded funding and authorizations to begin the purchase of the facility. If the state is able to finalize the purchase of the mall, renovation work will begin in the 2007 biennium.

### **Renewable Resource Grants and Loan Programs (RRGL)**

The biennial statutory allocation of Resource Indemnity Trust (RIT) interest income for RRGL grants is \$4.0 million, appropriated in HB 6. In the 2007 biennium, RRGL also receives \$1 million in fund transfers, \$600,000 general fund and \$400,000 Reclamation and Development Grant Program (RDGP) funds, to expand the grants program. Loans made under the RRGL are financed with bonds backed by coal severance tax revenue and are authorized in HB 8. The purpose of RRGL projects is "to enhance Montana's renewable resources through projects that measurably conserve, develop, manage, or preserve resources (85-1-602, MCA). The 2005 Legislature appropriated \$4.6 million for RRGL grants in HB 6 and authorized \$7.2 million for loans in HB 8. The interest rates on loans appropriated in HB 8 are subsidized with coal severance tax revenues in cases of financial need.

### **Reclamation and Development Grant Program (RDGP)**

The RDGP was established to fund projects that: 1) repair, reclaim, and mitigate environmental damages to public resources from non-renewable resource extraction; and 2) develop and ensure the quality of public resources for the benefit of all Montana citizens. The RDGP receives \$3.0 million in RIT investment income, \$4.1 million in oil and gas tax revenues, \$1.3 million in metal mines tax revenues, and other sources of funding in the 2007 biennium for grant awards appropriated in HB 7. The 2005 Legislature authorized \$4.9 million in grant appropriations.

## **CULTURAL & AESTHETIC GRANT PROGRAM**

The Cultural & Aesthetic Grant Program (C&A), administered by the Montana Arts Council (MAC), is funded with interest earned from the C&A Trust and general fund appropriations, for the purposes authorized in Title 22, Chapter 2, part 3, MCA. The 2005 Legislature authorized a total of \$792,925 for C&A grants and \$408,370 in administrative expenses in the 2007 biennium. In the 2007 biennium, interest earnings were increased by \$100,275 of general funds.

The legislature approved a one-time general fund transfer into the cultural trust of \$3.4 million. The transfer replaced almost all of the corpus reduction resulting from the 1997 purchase of Virginia and Nevada Cities. Because the repayment of the trust is not complete, the program will continue to require financial support to retain grant appropriations at a pre-reduction level.

## **TREASURE STATE ENDOWMENT PROGRAM**

The Treasure State Endowment Program (TSEP) is funded with investment earnings on the Treasure State Endowment Trust in accordance with Section 90-6-701, MCA. The Treasure State Endowment Trust receives 75 percent of the coal severance tax revenues deposited into the coal severance tax permanent fund. Deposits of the revenue are distributed into two TSEP trust funds, two-thirds are deposited in the TSEP grant program fund and one-third is deposited into the TSEP regional water program. In the 2007 biennium, estimated interest earnings available are \$17.6 million for the TSEP program and \$3.8 million for the TSEP regional water systems.

From the earnings, HB 11 authorizes \$16.2 million for 40 TSEP grants to local governments. In addition, \$100,000 is authorized for emergency grants and \$600,000 for preliminary engineering grants. For the 2007 biennium only, interest earnings from the regional water fund will not be used to fund construction costs of the TSEP regional water program. Instead, HB 748 appropriated \$5 million in general obligation (G.O.) bond proceeds to fund the match to federal and local regional water project costs. The interest earnings from the regional water trust will pay for the costs associated with the bond issue.

## **STATE BUILDING ENERGY CONSERVATION**

The State Building Energy Conservation Program (SBEC), operated by the Department of Environmental Quality (DEQ), was established to reduce operating costs in state facilities by identifying and funding cost-effective energy efficiency improvement projects. Through this program, the state sells G.O. bonds, uses the bond proceeds to pay for energy efficiency improvements, then uses the resulting energy cost savings to pay debt service on the bonds. The projects are designed so that the cost savings exceed the bond debt service.

HB 12 authorizes the Board of Examiners to issue up to \$3.75 million in G.O. bonds for SBEC. In addition, HB 12 grants the Department of Environmental Quality a biennial appropriation of \$400,000 from the bond proceeds to fund analysis, design, and program administration.

## ST. MARY FACILITY REHABILITATION

The St. Mary facilities of the Milk River, located on the Blackfeet Indian Reservation and owned by the U.S. Bureau of Reclamation's (USBR), are in urgent need of rehabilitation. The facilities are the keystone to large-scale irrigated agriculture in the Milk River Basin and the water supply of the townships along the river. This complex water delivery system has operated for over 85 years, and its deteriorated condition raises serious concerns. In the recent past, numerous problems and failures have plagued the system. The Department of Natural Resource and Conservation has indicated that catastrophic system failure is imminent if rehabilitation is postponed too long. Without the imported water from the St. Mary River Basin, irrigated agriculture in the Milk River Basin and the influx of dollars it generates will cease to exist. Failure of the canal, siphons, or drop structures may also result in environmental damage. In recognition of the magnitude of the St. Mary's problem, the 2005 Legislature took steps to begin rehabilitation of the system, but it is questionable whether the job can be completed without federal funding.

The St. Mary System is a vital component of Montana's infrastructure, and rehabilitation of the system is critical. The system supplies water for 120,731 irrigated acres, nine municipalities (among them Havre, Chinook, and Harlem), the Bowdoin National Wildlife Refuge, and provides numerous other fish, wildlife, and recreation benefits. The Fort Belknap Water Rights Compact is predicated on the continued viability of the St. Mary facilities to deliver water to the Milk River Basin. Without rehabilitation of the system, the compact may be negated. Furthermore, the USBR has determined that the current St. Mary diversion facilities are negatively impacting the population of the bull trout, which is listed as a threatened species.

The St. Mary facilities, constructed between 1906 and 1919, transfer water from the St. Mary River Basin to the Milk River Basin through a complex diversion system. The facilities consist of a storage dam (Sherburne Dam), diversion dam, a head gate, 29 miles of canal, 2 sets of steel siphons, and 5 concrete drop structures. Most of the structures have exceeded their design life and are in need of major repairs or replacement. The siphons are plagued with slope stability problems, metal fatigue, concrete deterioration, and leaks. The concrete drop structures are severely deteriorated. Landslides along the canal route and numerous structural deficiencies leave the canal unstable and restricted. The canal capacity has declined significantly. Failure of one of the drop structures in 2002 caused a shutdown of the canal for two months during the irrigation season.

The costs to rehabilitate the system are high and help is needed from the federal government. The USBR released a report in 2003 that estimated construction costs for rehabilitating the St. Mary facilities between \$75 million and \$125 million depending on canal capacity, a cost too high for the irrigators of the Milk River Basin or the state to bear. The cost to operate and maintain the St. Mary facilities has been borne by irrigators through an annual assessment on their irrigated lands, but according to the USBR, the ongoing costs of maintaining the system exceed the irrigator's operation and maintenance payments. USBR recently completed a regional feasibility study, yet the resulting report was not sufficient to present to Congress for authorization and funding. System rehabilitation, with a price tag of over \$90 million, will be difficult to accomplish without the help of federal funding.

Understanding the need for the rehabilitation of the St. Mary facilities, the 2005 Legislature took several steps to get the rehabilitation work started. In earlier biennia, the legislature has only appropriated funds to repair serious system problems, but the 59<sup>th</sup> Legislature took a more pro-active position in relation to the project. One important action taken by the legislature was to approve SJ 9, a joint

resolution requesting federal funding for the rehabilitation of the St. Mary diversion facilities and urging the support of the Montana congressional delegation. With its passage, the legislature sent a strong message to Congress about the importance of the project to Montanans. In addition to the resolution, the legislature appropriated almost \$12 million for the initial project work. The figure below shows the appropriations approved in the 2005 session and a short description of each appropriation follows.

Figure 8				
St. Mary Project Legislation				
Bill No.	Appropriation	Description	Source	Amount
HB 2	Hydrologist and Engineer	Two new FTE	RIT	\$246,526
HB 2	DNRC Staff	Ongoing staff support	RIT	240,000
HB 6	Halls Coulee Siphon Repair	Expansion joints and siphon supports	RRGL Grants	100,000
HB 7	Engineering Studies	Engineering and related studies to support working group	RDGP Grants	900,000
HB 11	Glacier County, St. Mary Bridge	New bridge construction	TSEP Grants	500,000
HB 540	Construction Match, to Federal Funding	Bond proceeds for a match of federal funds for construction projects	Bond Proceeds	<u>10,000,000</u>
Total St. Mary Project Funding:				<u>\$11,986,526</u>

**HB 2** – Two appropriations amounting to \$486,526 were made in the general appropriations act for the St. Mary facility project. Using resource indemnity trust (RIT) interest, a hydrologist and engineer will be hired to work on the design of facility upgrades. Another appropriation supplied state special revenue funds to allow DNRC staff to continue their work on the project.

**HB 6** – One appropriation of \$100,000 of Renewable Resource Grant (RRGL) funds was approved for the Milk River Irrigation Project Joint Board of Control. The grant will fund the replacement of five failed expansion joints and four concrete saddle supports on the Hall's Coulee.

**HB 7** – The appropriation of \$900,000 of Reclamation and Development Grant (RDGP) funds will serve as a match to federal appropriations to evaluate the St. Mary facilities and any previous studies performed by the USBR. The planned result is a selection of project alternatives, a National Environmental Policy Act evaluation, preliminary cost estimates, and preliminary project designs.

**HB 11** – The appropriation of \$500,000 of Treasure State Endowment Grant (TSEP) funds will fund a match to local dollars to replace the hazardous siphon bridge crossing the St. Mary River. The new bridge would be constructed just up river from the existing bridge for automobile traffic. The siphon bridge will remain in place to support the existing siphons until new siphons are constructed.

**HB 540** – This legislation appropriates \$10 million in bond proceeds as match for federal dollars for the construction costs of the St. Mary facilities rehabilitation project. This funding is contingent on a federal match, and no funds will be disbursed until a rehabilitation plan has been put into place and construction contracts are let.

In summary, the St. Mary system is an important component of Montana's infrastructure, supplying water to irrigators and towns along the High Line. In operation for over 85 years with only minimal repairs, the system has deteriorated to a point where complete system failure is imminent. Loss of the system would have disastrous economic and environmental consequences for the state. The 2005 Legislature, recognizing the value of the system, took initial steps to begin the costly proposition of rehabilitating the facilities. However, federal funding will be essential in completing the rehabilitation of the St. Mary system.

## OTHER APPROPRIATION BILLS

Although a large majority of direct appropriations occur in the general appropriations act (HB 2), other bills may also contain appropriations. The following figure lists all bills in which a separate appropriation was made, totaling \$405.0 million for all funds. The list does not include bills that either establish or change existing statutory appropriations. Supplemental appropriations are not included and are discussed later in this section.

The long-range planning bills are discussed in Volume 4, Section F of this report. HB 447 (State Employee Pay Plan) is discussed on page 105. The other bills are discussed in the narratives of the appropriate agencies in either Volume 3 or Volume 4. A short description of these bills follows.

**HB 18** – This legislation extends the state-tribal economic development commission to June 30, 2009, reduces the required quorum from 7 to 6 of the 10 member commission, and appropriates \$120,000 state special revenue and up to \$2 million in federal funds for the purpose of funding the commission's activities.

**HB 83** – This legislation revises school district tuition laws, including requiring the Superintendent of Public Instruction to pay tuition for out-of-district students in certain situations, and appropriates \$336,000 general fund for the payment of tuition and transportation.

**HB 201** – The amount of spending authority that remains from the appropriation for the 2005 biennium (HB 160 of the 2003 session), for natural resource damage assessment and litigation, is re-appropriated for the Department of Justice for the 2007 biennium.

**HB 327** – The monthly benefit payment for silicosis claimants is increased by \$50 per month. The legislation appropriates \$54,000 general fund for the increased cost.

**HB 423** – This legislation appropriates \$500,000 from the state general fund to the Department of Commerce for the 2007 biennium to purchase the land and purchase or construct a facility for a

Figure 9  
Other Appropriation Bills  
FY 2005 (see notes) and 2007 Biennium

		2007 Biennium (unless noted below)		
Bill No	Description	General Fund	State Special	Other Funds <sup>3</sup>
<b>Long-Range Planning Bills</b>				
HB 5	Long-range building appropriations <sup>1</sup>	\$0	\$160,718,427	\$19,984,000
HB 6	Renewable resource grants	0	5,000,000	0
HB 7	Reclamation and development grants	0	4,900,000	0
HB 8	Renewable resource bonds and loans <sup>2</sup>	0	0	0
HB 9	Cultural and aesthetic grant appropriations	0	822,925	0
HB 11	Treasure state endowment appropriation	0	16,900,000	0
HB 12	General obligation bonds for energy conservation program	0	4,150,000	0
HB 299	Long-range building program bonds	0	0	5,100,000
HB 540	Bonding for higher education and other state projects	0	0	67,500,000
HB 748	General obligation bonds for water resource projects	0	0	5,000,000
Sub-Total		\$0	\$192,491,352	\$97,584,000
<b>Other Appropriation Bills</b>				
HB 18	Extend duration of state-tribal economic development commission	\$0	\$120,000	\$2,000,000
HB 83	Revise school district tuition payments	336,000	0	0
HB 201	Fund natural resource damage litigation	0	440,000	0
HB 327	Increase silicosis benefits	54,000	0	0
HB 423	Provide funding for great plains dinosaur park in Malta	500,000	0	0
HB 438	Braille literacy services for blind or visually impaired children	440,004	0	0
HB 440	Require locks on anhydrous ammonia storage tanks	80,000	0	0
HB 447	Increase state employee pay	37,610,585	22,311,185	14,661,267
HB 484	Mobile meat processor licensing and inspection	88,894	0	0
HB 512	Appropriate federal funds for local rail freight assistance programs	0	0	1,100,000
HB 522	Study design of state dental program	10,000	0	0
HB 550	Fund youth leadership forum for students with disabilities	100,000	0	0
HB 552	Change asset test for children for medicaid	0	1,876,316	0
HB 577	Appropriate money to fund rape kits and examinations	61,000	0	0
HB 713	Fund national guard and military mission assessment and promotion <sup>3</sup>	100,000	0	0
HB 740	Appropriate money for asbestos-disease related programs	0	175,000	0
HB 742	Create registry for declarations concerning life-sustaining	80,000	0	0
HB 749	Revise nursing home bed tax	0	9,500,000	22,502,947
HB 761	Life insurance premium reimbursement for members of national guard/reserve <sup>4</sup>	0	660,000	0
HB 769	Creating the rail service competition council	0	100,000	0
HB 772	Pay travel expenses for catastrophically injured workers	0	1,000	0
HB 790	Interim study on split estates and coal bed methane reclamation and bonding	0	50,000	0
Sub-Total		\$39,460,483	\$35,233,501	\$40,264,214
Total All Bills		\$39,460,483	\$227,724,853	\$137,848,214

Notes<sup>1</sup> Amounts shown are appropriated in FY 2005 but authority will carry forward into the 2007 biennium.

<sup>2</sup> Amount appropriated to a state agency is dependent upon amount loaned to that agency.

<sup>3</sup> \$100,000 general fund appropriated in FY 2005.

<sup>4</sup> \$60,000 of the \$660,000 state special revenue appropriated in FY 2005.

<sup>5</sup> Other funds can be federal funds, proprietary funds, or capital projects funds.

dinosaur park in Malta, Montana. It allows the department to lease the property to a private, nonprofit entity for the purpose of operating the park.

HB 438 – An amount totaling \$440,004 general fund is appropriated to the Montana School for the Deaf and Blind to establish a Braille equipment loan program and to provide for expansion of the outreach program to assist public school districts in conforming to the requirements of the Blind Persons' Literacy Rights and Education Act.

HB 440 – According to this legislation, administrative rules that address anhydrous ammonia facilities must require a lock on tanks. It appropriates \$80,000 general fund for the 2007 biennium to the Department of Agriculture to fund the purchase and distribution of anhydrous ammonia locks.

HB 484 – A total of \$88,894 general fund is appropriated for the 2007 biennium to the Department of Livestock to implement the provisions of the mobile slaughter facility licensing program created in this legislation.

HB 512 – This legislation appropriates up to \$1.1 million federal funds for the 2007 biennium to provide loans and grants for the preservation and continued operation of railroad branch lines (identified in 60-11-111, MCA) and for the development and improvement of related transportation facilities.

HB 522 – A general fund appropriation of \$10,000 for the 2007 biennium is provided to the Board of Regents for the purposes of a study to determine the feasibility of Montana State University (MSU) making an agreement with the University of Washington (UW) dental school to have first-year dental students complete dental courses at MSU and then transfer to UW for completion of dental education.

HB 550 – This legislation appropriates \$100,000 general fund to the Department of Public Health and Human Services for the 2007 biennium for a grant or to fund a contract to hold a Montana youth leadership forum for students with disabilities, including Indian students on Montana reservations.

HB 552 - The Department of Public Health and Human Services may not apply financial criteria below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children's Medicaid coverage groups. The legislation appropriates \$1,876,316 from the health and Medicaid initiatives state special revenue account to the department for FY 2007 for the purposes of providing Medicaid services for this eligibility group. HB 2 contains an appropriation for federal matching funds related to this item.

HB 577 – This legislation provides a biennial appropriation of \$61,000 general fund to the Department of Justice, Office of Restorative Justice, to be used to cover the costs of providing sexual assault forensic exams for sexual assault victims when the local law enforcement agency is not responsible for the costs.

HB 713 - The Department of Commerce is appropriated \$100,000 general fund in FY 2005 for a task force to conduct a mission assessment for military and National Guard installations in Montana and to promote the establishment of new installations and expanded missions.

HB 740 – This legislation creates an asbestos disease account to be used by the Department of Public Health and Human Services (DPHHS) to provide grants to Lincoln County, for various purposes related



to providing services to asbestos patients. A transfer of \$175,000 general fund to the new account is provided, and the moneys in the account are appropriated to DPHHS for the grants.

HB 742 – This legislation requires the attorney general to establish and maintain a health care declaration registry, accessible through a website maintained by the attorney general, and used to store declarations, pertaining to life-sustaining treatment. It appropriates \$80,000 general fund to the attorney general for the 2007 biennium for the registry and a related public education program.

HB 749 – The utilization fee on nursing facility bed days is increased in each year of the 2007 biennium, increasing the amount available to the Department of Public Health and Human Services to fund increased Medicaid payments to the nursing facilities by leveraging available federal matching dollars. Appropriations of \$9.5 million state special revenue and \$22.5 million federal funds are included in the legislation.

HB 761 – The Department of Military Affairs is to establish a program for reimbursing Montana National Guard and reserve members for the cost of group life insurance premiums when they are on active duty in a military operation against an enemy. The legislation creates a state special revenue account, transfers \$660,000 general fund to the account, and appropriates those moneys from the new account (\$60,000 in FY 2005, \$300,000 in FY 2006, and \$300,000 in FY 2007) to the department.

HB 769 – This legislation creates a rail service competition council, and appropriates \$50,000 from the highways state special revenue account each year of the 2007 biennium to the council, which is administratively attached to the Governor's Office. The council's duties generally are to promote rail service competition in the state of Montana.

HB 772 – The Department of Labor and Industry is required to administer a program for matching funds raised by nonprofit organizations with up to \$2,500 from insurers to assist catastrophically injured workers. An appropriation of \$1,000 state special revenue from the workers' compensation administration fund to the department for the 2007 biennium is provided, to produce information to notify appropriate agencies and groups of the financial assistance available to catastrophically injured workers under this legislation.

HB 790 – The Environmental Quality Council is directed to conduct an interim study on split estates with regard to the ownership of minerals and the ownership of surface property related to oil and gas development, reclamation of surface property affected by coal bed methane development, and bonding requirements for coal bed methane production. An appropriation of \$50,000 state special revenue is provided from an allocation of oil and natural gas production taxes to the Legislative Services Division for the 2007 biennium.

## STATUS OF TOBACCO SETTLEMENT FUNDS

Montana receives revenue as a settling party to a master settlement agreement (MSA) with four original tobacco companies (subsequently, this became three) and 43 subsequent companies that ended a four-year legal battle that included 46 states and 6 other entities. Currently, Montana is eligible for two types of payment: 1) on-going annual payments (to be received April 15th); and 2) strategic contribution payments (from FY 2008 through FY 2017). The MSA places no restrictions on how states are to spend the money.

### REVENUE

The total amount of tobacco settlement funds available to Montana may be affected by a number of adjustments. The three most important are the adjustments for inflation, volume of cigarettes shipped nationally, and participating manufacturers' loss of market share. Montana's annual share will increase by a minimum amount of 3 percent or more if inflation is greater than 3 percent. The amount will decrease if the number of cigarettes shipped nationally decreases and will increase if the number increases. Proceeds are reduced if it is proven that participating manufacturers have lost a significant portion of market share due to disadvantages caused by the MSA (participating manufacturers did lose market share in 2003). Figure 10 shows the revenue Montana has received through FY 2004 and amounts expected in FY 2005-2007, as estimated by the Revenue and Transportation Interim Committee. Revenues decline due to reductions required in the MSA, declines in the number of cigarettes shipped nationally, and anticipation that participating manufacturers will withhold a portion of their payments in the 2007 biennium until the cause of the loss of market share is proven. Based on testimony from the Montana attorney general staff, the Revenue and Transportation Interim Committee decided to include in the legislature's revenue estimates a reduction in revenue caused by the loss of participating manufacturers' market shares.

Figure 10  
Tobacco Settlement and Tobacco Trust  
Revenues and Distributions

Current Distribution % Fiscal Year	Tobacco Settlement Revenue Allocations					Tobacco Trust Interest Earnings Allocations		
	11% General Fund	40% Trust Fund	State Special Revenue		100% Total	90% State Special	10% Tobacco Trust	100% Total
			32% Treat/Prevention	17% CHIPS, CHA				
2000 Actual	\$34,804,411	\$0	\$0	\$0	\$34,804,411	\$0	\$0	\$0
2001 Actual*	15,989,101	10,650,750	0	0	26,639,851	98,519	71,172	169,691
2002 Actual	18,647,411	12,431,607	0	0	31,079,018	1,015,407	22,212	1,037,619
2003 Actual	18,699,611	12,466,407	0	0	31,166,018	1,647,194	160,832	1,808,027
2004 Actual**	2,977,777	10,828,281	8,662,625	4,602,020	27,070,703	2,402,846	266,983	2,669,829
2005 Estimate	2,871,220	10,440,800	8,352,640	4,437,340	26,102,000	2,556,900	284,100	2,841,000
2006 Estimate	2,319,240	8,433,600	6,746,880	3,584,280	21,084,000	2,970,900	330,100	3,301,000
2007 Estimate	<u>2,308,680</u>	<u>8,395,200</u>	<u>6,716,160</u>	<u>3,567,960</u>	<u>20,988,000</u>	<u>3,438,000</u>	<u>382,000</u>	<u>3,820,000</u>
Totals	\$98,617,451	\$73,646,646	\$30,478,305	\$16,191,600	\$218,934,002	\$14,129,765	\$1,517,399	\$15,647,165

\* In addition, \$1,143 general fund was recorded as prior year revenue.

\*\* In addition, \$22,189 of interest to the trust was recorded as prior year revenue.

### DISTRIBUTION

In FY 2000, the revenue received from the MSA was deposited to the general fund. However, due to passage of Montana Constitutional Amendment 35 by the electorate in November 2000, beginning in January 2001, the legislature was required to dedicate not less than 40 percent of tobacco settlement money to a permanent tobacco trust fund. Since the legislature has not yet specified in statute the exact percentage to be distributed to the tobacco trust fund, the revenue estimates assume 40 percent.

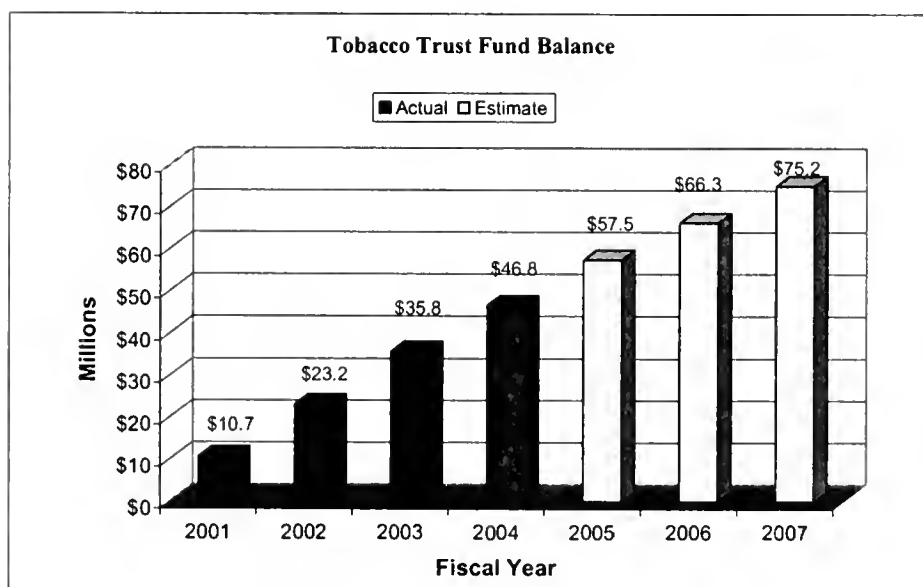
From July 2000 to June 2003, 60 percent of the money was deposited into the general fund. Due to passage of Initiative 146 by the electorate in November 2002, beginning July 2003, 32 percent of the total tobacco settlement money funds tobacco prevention/cessation programs, and 17 percent of the total funds the Children's Health Insurance Program and programs of the Comprehensive Health Association (CHA). SB 485 (17-6-606, MCA), enacted by the 2003 legislature, allows the 32 percent allocation to be used for human service programs and the 17 percent allocation to be used to match federal Medicaid money. These allowances terminate the end of June 2005. Money from both allocations can be used for tobacco disease prevention and to fund the Tobacco Prevention Advisory Board. Money not appropriated within two years is transferred to the tobacco trust fund. The remaining 11 percent of the MSA money is deposited to the general fund. SB 485 authorized the transfer of \$5.8 million in FY 2004 and \$6.1 million in FY 2005 from the account receiving the 32 percent allocation to a newly created prevention and stabilization state special revenue account. Figure \_\_\_\_ also shows actual settlement amounts distributed to the general fund, tobacco trust fund, and state special revenue accounts through FY 2004 and the amounts estimated to be distributed in FY 2005-2007.

## TOBACCO TRUST FUND

As stipulated in the Montana Constitution, interest earnings from the tobacco trust are to be distributed:

- 1) 90 percent for appropriation by the legislature for disease prevention programs and state programs providing benefits, services, or coverage related to the health care needs of the people of Montana; and
- 2) 10 percent to the tobacco trust. Money in the tobacco trust can be spent if approved by 2/3 of each house of the legislature. Appropriations of principal, income, or interest from the trust fund cannot be used to replace state or federal money that supports tobacco disease prevention programs that existed

Figure 11



on December 31, 1999. The tobacco trust fund began receiving deposits of settlement proceeds and interest earnings in FY 2001. Figure 11 shows the fiscal year end fund balances through FY 2004 and the balances estimated by the legislature for FY 2005-2007.

## CIGARETTE AND TOBACCO TAX FUNDS: INITIATIVE I-149

One of the most significant policy and appropriation issues considered by the 2005 Legislature was implementation of citizen Initiative 149 (I-149) passed by voters in November 2004, which:

- o Raised taxes on tobacco products, most notably a \$1 increase per pack of cigarettes
- o Created the health and Medicaid initiatives account for receipt of tobacco tax revenues
- o Established uses for I-149 revenues:
  - State matching funds to maximize enrollment of eligible children in CHIP
  - Need based prescription drug program for children, seniors, chronically ill, and disabled persons
  - Increased Medicaid services and Medicaid provider rates
  - Tax credits for small employers for assistance in providing health insurance to their employees

I-149 is codified in Title 53 Chapter 6 part 12, MCA.

### REVENUE ESTIMATE

Figure 12 shows the revenue estimate for the health and Medicaid initiatives account. In total, the account is projected to receive \$99 million from implementation through the end of FY 2007. These estimates are as included in HJR 2, the revenue estimating resolution.

**Figure 12**

**Cigarette and Tobacco Tax Revenue Estimates**  
Based on Revenue & Transportation Interim Committee Assumptions  
Old Law vs. New Law / Fiscal 2005, 2006, 2007  
In Millions

	FY 2005 Old Law	FY 2005 New Law	FY 2006 Old Law	FY 2006 New Law	FY 2007 Old Law	FY 2007 New Law	3 Years Old Law	3 Years New Law
<b>Cigarette Tax</b>								
Tribal Payments	0.803	0.803	1.195	1.735	1.166	2.234	3.164	4.772
General Fund	34.639	34.608	33.321	33.193	32.397	32.030	100.357	99.831
Long-Range Building Program	1.704	1.849	1.639	1.914	1.594	1.847	4.937	5.610
State Veterans' Nursing Home *	3.289	4.826	3.164	6.109	3.077	5.895	9.530	16.830
Health & Medicaid Initiatives	<u>0.000</u>	<u>16.867</u>	<u>0.000</u>	<u>32.383</u>	<u>0.000</u>	<u>31.249</u>	<u>0.000</u>	<u>80.499</u>
Totals	<u>\$40.435</u>	<u>\$58.953</u>	<u>\$39.319</u>	<u>\$75.334</u>	<u>\$38.234</u>	<u>\$73.255</u>	<u>\$117.988</u>	<u>\$207.542</u>
Change		\$18.518		\$36.015		\$35.021		\$89.554
<b>Moist Snuff &amp; Other Tobacco Tax</b>								
Tribal Payments	0.085	0.085	0.107	0.163	0.110	0.223	0.302	0.471
General Fund	3.687	3.677	3.760	3.779	3.855	3.847	11.302	11.303
Health & Medicaid Initiatives	<u>0.000</u>	<u>1.861</u>	<u>0.000</u>	<u>3.779</u>	<u>0.000</u>	<u>3.847</u>	<u>0.000</u>	<u>9.487</u>
Totals	<u>\$3.772</u>	<u>\$5.623</u>	<u>\$3.867</u>	<u>\$7.721</u>	<u>\$3.965</u>	<u>\$7.917</u>	<u>\$11.604</u>	<u>\$21.261</u>
Change		\$1.851		\$3.854		\$3.952		\$9.657
<b>All Tobacco Taxes Combined</b>	<u>\$44.207</u>	<u>\$64.576</u>	<u>\$43.186</u>	<u>\$83.055</u>	<u>\$42.199</u>	<u>\$81.172</u>	<u>\$129.592</u>	<u>\$228.803</u>
Change		\$20.369		\$39.869		\$38.973		\$99.211

\* The greater of 8.3 percent or \$2.0 million Excess above \$2.0 million at the end of fiscal year is returned to the general fund.

The revenue estimates are based on consumption declines of about 20 percent, based on similar states' experiences. However, legislative appropriations are less than the estimated revenues shown in Figure 12. The legislature was concerned about the level of revenue that would be received over the time period and lowered overall appropriations. The legislature also added language to two major pieces of legislation to implement the programs anticipated by I-149, with the thought that program expenditures would be scaled back if projected revenues were inadequate to cover appropriations. The legislation and language is discussed in the following narrative.

## LEGISLATIVE ACTIONS

The legislature passed two bills (SB 324 – prescription drug program and HB 667 – health insurance tax credits and premium assistance for small employers) to implement I-149 and made various appropriations in HB 2.

### ***State Pharmacy Access and Prescription Drug Access (SB 324)***

SB 324 embodies the components of I-149 (53-6-1201(3)(b), MCA) that allow for funding from the health and Medicaid initiatives account for a prescription drug program. DPHHS administers the program and SB 324 establishes the following program components:

- State pharmacy access to complement the new Medicare drug benefit (Part D)
- Pharmacy information access
- Pharmacy plus program

Total program expenditures are limited to the appropriated amounts, so DPHHS may have to establish enrollment limits for some program components. The legislature appropriated \$20 million state special revenue over the biennium from the health and Medicaid initiatives account (\$16 million) and rebates from drug manufacturers participating in the pharmacy plus program (\$4 million). The funding supports 9.0 new FTE and operating costs for program administration, but the lion's share of the appropriation (\$15 million) supports direct services to individuals. The \$5 million appropriation for administrative costs also includes the cost to provide pharmacy assistance to Montanans who telephone or visit the website that is to be established by DPHHS.

SB 324 also includes a provision requiring the Office of Budget and Program Planning (OBPP) to estimate the revenues for the health and Medicaid initiatives account by July 1 for each coming fiscal year of the biennium. If projected revenues are below the amount appropriated from the account, OBPP must notify DPHHS, and DPHHS must change the operating plan for the program to reflect the available revenue.

### **State Pharmacy Access Program**

The state pharmacy program is designed to complement the new Medicare Part D drug benefit. Enrollment in the state program must be opened at the same time enrollment commences for the Part D benefit. Other program components include:

- Eligibility – family income up to 200 percent of the federal poverty level and individual must submit proof of enrollment in Medicare Part D
- Benefits – full or partial payment of the Part D premium and, depending on funding availability, payment of a portion of the deductible

### **Prescription Drug Information and Technical Assistance Program**

SB 324 also establishes prescription drug and consumer information and technical assistance programs in DPHHS to provide Montana residents with advice on the prudent use of prescription drugs and how to access government and private prescription drug programs and discounts. DPHHS is required to:

- Provide consultation by licensed pharmacists with individuals on how to avoid dangerous drug interactions and provide for substitution of more cost-effective drugs
- Create educational resources, including a website

### **Pharmacy Plus Discount Program**

SB 324 also provides for use of health and Medicaid initiatives account funds for a pharmacy plus discount program (53-6-1002, MCA) if DPHHS determines that there are excess funds remaining from the appropriation for the Part D state pharmacy program. The pharmacy plus discount program:

- Provides discounted prices for prescription drugs for persons with incomes below 250 percent of the federal poverty level
- Allows establishment of a secondary discounted price for generic drugs, depending on funding availability
- Establishes a state special revenue account for receipt of drug rebate revenues from drug manufacturers participating in the program
- Limits program expenditures to available funding

### ***Health Insurance Premium Assistance Program for Small Employers***

HB 667 implemented a second important component of I-149 – assistance in providing health insurance for small employers by establishing:

- Tax credits for small employers purchasing health insurance
- A health insurance purchasing pool
- Premium assistance

The State Auditor will administer the program, which is discussed in greater detail in the Office of State Auditor, Volume 3 of the Fiscal Report. DPHHS received funding for 1.00 FTE to develop and implement a Medicaid waiver to provide premium assistance for low-income workers of small employers and federal matching funds in FY 2007 to help fund Medicaid services. The State Auditor will provide the necessary state match. In order to be eligible:

- Employers must have two to nine employees and not currently offer health insurance and begin to do so by:
  - Opting into the small employer health insurance purchasing pool, or
  - Joining a qualified association plan
- Employees must not be eligible for Medicaid or CHIP and have incomes below 200 percent of the federal poverty level and meet the following criteria:
  - Uninsured adults ages 19 through 64 who have children under the age of 21
  - Youths age 18 to 21
  - HB 667 included the same amendments as SB 324 regarding adjustments of program operating budgets if revenue forecasts made by OBPP show that the funds received by the health and Medicaid initiatives account will be insufficient to fund the appropriations from the account.

## HB 2 Appropriations for Medicaid, CHIP, and Other Services

The legislature also appropriated health initiative and Medicaid funds to support CHIP, Medicaid service expansions and provider rate increases, and other services. While the legislature accepted the executive proposals for Medicaid provider rate increases funded from I-149 funds, state match for CHIP and Medicaid services, and children's special health services, it also expanded provider rate increases, added funds for direct care worker wage increases, and expanded Medicaid eligibility for children, raising asset limits for a family from \$3,000 to \$15,000 (HB 552). Figure 13 shows each appropriation made from I-149 in HB 2 and HB 552. Appropriations marked with an asterisk are those added by legislative initiative.

Figure 13

Legislative Appropriation of I-149 Funds and General Fund to Delay Use of I-149 Until 1/1/06

Description of Appropriation, Agency, HB 2, and HB 552	Biennial Approp.		% of Ttl
	General Fund	I-149	I-149
<b>APPROPRIATIONS IN HB 2 - DPHHS</b>			
<b>PRESCRIPTION DRUG PROGRAM - SB 324</b>	\$0	\$15,750,000	26%
<b>SMALL EMPLOYER PREMIUM ASSISTANCE - HB 667</b>	0	34,574	0%
<b>MEDICAID DIRECT CARE WORKER WAGE INCREASES</b>			
<u>Direct Care Worker Wage Increases</u>			
*Nursing Homes and Aging/Disabled Community*	\$1,000,000	\$3,000,000	5%
DD Provider Wages - 25th to the 35th Labor Market Percentile	475,000	1,425,000	2%
*Children's Mental Health Direct Care Worker Wage Increase*	0	875,000	1%
Nursing Home/Community Services Direct Care Wage Initiatives	271,873	815,618	1%
<b>Total Medicaid Direct Care Worker Wage Increase Proposals</b>	<b>\$1,788,940</b>	<b>\$6,115,618</b>	<b>10%</b>
<b>MEDICAID PROVIDER RATE INCREASES</b>			
<u>Rate Increases</u>			
Nonhospital Service Provider Rate Increase; Dental Access	\$858,952	\$3,112,824	5%
3% Nursing Home/Community Services Provider Rate Increase	720,004	2,194,923	4%
Children's Mental Health 6% Rate Increase			0%
*Physician Rate Increase to 85% of Medicare Rate*	400,000	1,200,000	2%
EPSTD, Hospitals, Critical Access Hospitals, Ambulatory Surgical Centers	0	824,067	1%
Cardiac and Pulmonary Rehabilitation	0	177,215	0%
<b>Total Medicaid Rate Increase Proposals</b>	<b>\$1,978,956</b>	<b>\$7,509,029</b>	<b>12%</b>
<b>MEDICAID SERVICE EXPANSIONS</b>			
*Raise Medicaid Asset Test - Children (Appropriation in HB 552)*	0	1,876,316	3%
Home/Community Waiver Services for Mentally Ill Adults	0	631,601	1%
Expand Intensive Community Rehab. Beds by 7 - Adults	0	256,194	0%
Community Services Expansion (20 New Senior/Disabled Slots)	0	825,829	1%
Flexible Funds for Waiver for Seriously Emotionally Disturbed Children	0	50,000	0%
<b>Subtotal Medicaid Service Expansions</b>		<b>3,639,940</b>	<b>6%</b>
<b>Total Medicaid Rate and Service Expansions Funded</b>	<b>\$1,978,956</b>	<b>\$11,148,969</b>	<b>18%</b>
<b>OTHER APPROPRIATIONS FROM I-149 FUNDS</b>			
Mental Health Services Plan/HIFA Medicaid Match in FY 07	0	6,500,000	11%
Medicaid Matching Funds	0	3,976,371	7%
CHIP Enrollment Including Expansion to 13,900 Children	1,215,680	4,537,298	7%
Additional Clinic Children's Specialty Health Clinic	0	75,000	0%
<b>Total Other I-149 Appropriations</b>	<b>\$1,215,680</b>	<b>\$15,088,669</b>	<b>25%</b>
<b>Total I-149 Recommendations Funded for DPHHS</b>	<b>\$4,983,576</b>	<b>\$48,137,831</b>	<b>79%</b>
<b>APPROPRIATIONS IN HB 2 - STATE AUDITORS' OFFICE</b>			
<b>SMALL EMPLOYER PREMIUM ASSISTANCE - HB 667</b>	\$0	\$7,570,376	12%
<b>SMALL EMPLOYER TAX CREDITS - HB 667</b>	0	5,176,330	9%
<b>Grand Total Appropriations</b>	<b>\$4,983,576</b>	<b>\$60,884,537</b>	<b>100%</b>
<b>Subtotal Legislative Initiatives</b>	<b>\$1,400,000</b>	<b>\$6,951,316</b>	<b>11%</b>

Some appropriations for rate increases in Figure 13 include general fund. The legislature structured the appropriations from I-149 funds to delay use of revenues flowing into the health and Medicaid initiatives account so that the cash balance could reach \$25 million as quickly as possible. The Office of Budget and Program Planning also pledged to give Medicaid and CHIP appropriations highest priority in establishing the order in which appropriations would be funded from the health and Medicaid initiatives account if forecast revenues were insufficient to fund all appropriations from the account. OBPP delivered a letter stating such intent to the Senate Finance and Claims Committee and provided copies of the letter to the Legislative Finance Committee. In response to the pledge from OBPP, the legislature removed language from HB 2 making the appropriations for the following divisions contingent on implementation of provider rate and direct care worker wage increases by July 15, 2005: Health Resources, Disability Services, Senior and Long Term Care, and Addictive and Mental Disorders.

The legislature appropriated nearly \$61 from the health and Medicaid initiatives account. DPHHS received \$48 million appropriated in HB 2 and HB 552 (raise Medicaid eligibility for children). The State Auditor received about \$13 million for tax credits and other types of health insurance premium assistance for small employers.

The prescription drug and assistance program created by SB 324 received 26 percent, the largest share, of funding from the health and Medicaid initiatives account. Other types of expenditures and the funding each received are:

- Medicaid provider rate increases - \$7.5 million
- Mental Health Services Plan and state Medicaid match - \$6.5 million
- Medicaid direct care worker wage increases - \$6 million
- CHIP matching funds - \$4.5 million
- Medicaid services expansions (including HB 552) - \$4 million
- Medicaid matching funds - \$4 million



## OFFICE OF STATE PUBLIC DEFENDER

### OVERVIEW

The 2005 legislature passed SB 146, which established the Office of State Public Defender. This legislation is partially in response to a lawsuit filed in district court by the American Civil Liberties Union (ACLU) against the State of Montana and Missoula County. The ACLU alleges that criminal defendants that are indigent are not being provided public defender services in a fair and consistent manner among jurisdictions. Also, the ACLU argues that the current system of public defense in the state creates a conflict of interest when the judge appoints a public defender for a case being adjudicated by that judge. The attorney general and the ACLU signed a stipulation placing the lawsuit on hold pending the actions of the legislature and the outcome of the proposed legislation. After the legislation was passed, the ACLU sent a letter to the district judge asking that the trial date be cancelled indefinitely. However, part of the settlement agreement states that the public defender system must be adequately funded by the state. The ACLU is still reviewing this issue.

### SB 146

The public defender system as passed by SB 146 provides public defender services in criminal and certain civil cases for any individual who is: 1) determined to be financially unable to retain private counsel; and 2) accused of an offense that could result in the person's loss of life or liberty should the person be convicted. The new system will provide public defender services in the Supreme Court or in any district court, justice court, city or municipal court in the state. A Public Defender Commission, comprised of seven individuals appointed by the Governor, will head the statewide system. The commission will oversee a Chief Public Defender Office responsible for managing regional public defender offices, contracts with private attorneys, and the appellate defender function.

### FUNDING/COSTS

The cost estimates for the public defender system for the 2007 biennium were primarily gathered from the Administrator of the Supreme Court, the Department of Corrections, the Appellate Defender, county-managed and public defender offices. These costs include payments for public defender services provided by seven county-managed public defender offices through the state, services provided by private attorneys, transcripts, private investigator services, and witness fees and expenses.

FY 2006 will be a year of transition, whereby the commission and the chief public defender will undertake a process to convert the current system of services provided by the state and the collective counties and cities, to one that provides services in a statewide system.

The legislation provides that the costs of the statewide system be shared by the state and by each county and city. The percentage that each entity currently contributes to the total costs of the current system forms the cost sharing formula. The amount of this cost sharing will be deducted from each entity's entitlement.

The legislature provided this office with total funding of \$14.6 million for the 2007 biennium. Of this funding, approximately \$8.1 million and 1.50 FTE will be transferred from the Judiciary's District Court Assumption program to the new office in FY 2007. These costs were primarily for public defender services provided by county-managed public defender offices or by private attorneys that contract with the state. Approximately \$0.2 million and 3.00 FTE will be transferred from the Appellate Defender at the beginning of FY 2007. Approximately \$0.1 million will be transferred from the Department of

Corrections at the beginning of FY 2007. There were 5.50 new FTE in FY 2006 and 20.00 FTE in FY 2007 authorized to manage and administer this office. Also, there were 42.00 FTE attorneys and 23.75 support staff transferred from county and city governments in FY 2007. Please refer to the figure below.

Figure 14				
Office of State Public Defender				
Sources of FTE and Funding				
2007 Biennium				
	FTE		General Fund	
	FY 2006	FY 2007	FY 2006	FY 2007
Transfer of FTE and funding:				
From Judiciary	0.00	1.50	\$0	\$8,137,160
From Appellate Defender	0.00	3.00	0	205,261
From Department of Corrections	0.00	0.00	0	50,141
From local government	0.00	65.75	0	0
Local government entitlement payments	0.00	0.00	0	2,559,141
New state FTE and funds	<u>5.50</u>	<u>20.00</u>	<u>\$27,729</u>	<u>3,182,414</u>
Total FTE and funding	<u>5.50</u>	<u>90.25</u>	<u>\$527,729</u>	<u>\$14,134,117</u>
Total funding for 2007 biennium				<u>\$14,661,846</u>

Because the 2007 biennium will be a transitional biennium for the new statewide public defender system, funding for the 2009 biennium is expected to be roughly two times the FY 2007 amount or \$28.3 million.

## FISCAL 2005 SUPPLEMENTAL APPROPRIATIONS

The legislature provided state agencies with an additional \$55.3 million general fund from supplemental appropriations in FY 2005 in HB 745, HB 332, and HB 271.

Figure 15 compares this total with supplemental appropriations since the 1987 biennium. As shown, the 2005 biennium total is among the highest in recent biennia.

This situation is due primarily to two partially offsetting factors in the 2005 biennium.

- Fire season costs have the lowest general fund obligations in many biennia. While the fire season in FY 2004 was severe, almost the entire state cost was paid by either the Federal Emergency Management Agency (FEMA) or through a portion of the \$50 million non-specific Jobs and Growth grants by the federal government. Governor Martz authorized the expenditure of over \$37 million of the federal funds for fires. In addition, the FY 2005 fire season was mild, although continuing drought conditions could increase anticipated spring fires beyond the level anticipated in this supplemental.
- The legislature, upon recommendation of both Governor Martz and Governor Schweitzer, paid off three obligations of the state with one-time revenues received in the 2005 biennium to reduce general fund obligations in future years:
  - The Crow Tribe settlement (\$9,000,000);
  - All Department of Revenue IRIS computer system debt service and contractor payments (\$16,000,000); and
  - A settlement of two lawsuits brought by members of the Montana Highway Patrol (\$8,500,000).
  - Each is discussed in more detail below.

Figure 15

### General Fund Supplementals 1987 to 2005 Biennia

Biennium	Millions
1987	\$32.7
1989	17.1
1991	20.4
1993	82.2
1995	19.9
1997	14.2
1999	11.5
2001	68.2
2003	12.5
2005	55.3

Figure 16 shows each supplemental appropriation, by agency and purpose. Following the figure is a brief description of each.

Figure 16		
Supplemental Appropriations Fiscal 2005		
Department/Program	General Fund	Other Funds
Public Health and Human Services		
Child and Family Services	\$1,669,184	
Medicaid	2,000,000	
Child Support Enforcement	857,058	
Low Income Energy Assistance*	903,255	
Corrections		
Secure Care/Community Corrections	4,415,657	
Justice		
Legal Services Major Litigation	200,000	
Highway Patrol Retirement	363,762	
Exempt Staff Payout	24,000	36,000
Highway Patrol Settlement	8,500,000	
Governor		
Exempt Staff Payout	163,683	
Ombudsman Replace Federal Funds	135,123	
Commissioner of Political Practices		
Exempt Staff Payout	10,262	
Judiciary		
District Court Reimbursement/State Hospital	6,800,000	
DNRC		
Fire Costs	2,000,000	
Crow Tribe Settlement	9,000,000	
Agriculture		
BSE Testing	41,318	
Commerce		
Worker Training Program**	2,170,000	
Revenue		
Payoff IRIS Loan/Contractor Payments	13,900,000	
Administration		
IRIS Contract Payments	<u>2,100,000</u>	
Total	<u>\$55,253,302</u>	<u>\$36,000</u>
*Contained in HB 332.		
**Contained in HB 271		

## DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES (DPHHS)

The legislature provided four supplemental appropriations to DPHHS:

- Child and Family Services Division – The division received additional funds due to audits done both by the federal government and internally that revealed that a number of children that had been thought to be eligible for partial federal funding were not eligible, obligating the state for the entire cost of care. The department mitigated a portion of the additional costs through a variety of actions and requested a supplemental appropriation for the remainder.
- Medicaid – The department had initially anticipated saving a portion of the cost of Medicaid to address the shortfall in the Child and Family Services Division. However, rising caseload resulted in costs over the amount originally estimated.
- The Child Support Enforcement Division has experienced a loss of funds used to both support the program and match additional federal funds: 1) state funds from retention of the state share of child support collections due primarily to lower TANF caseloads; and 2) federal funds due primarily to a reduction in incentive payments. The legislature added funds to address these ongoing issues.

- Low Income Energy Assistance Payments (LIEAP) were increased to provide additional energy assistance to low income persons to supplement the federal funds that traditionally provide exclusive support to the program. (The legislature also added general fund in the 2007 biennium to assist with anticipated higher energy costs.)

## DEPARTMENT OF CORRECTIONS

The legislature added funds to the Department of Corrections for three reasons:

- Population growth has exceeded projections by about 435 average daily population, which adds about \$2.3 million
- Vacancy savings targets were not met, resulting in an additional expense of \$2.3 million
- Other overruns totaled \$1.7 million and include outside medical, increased utility costs, costs related to the new Eastmont campus, and overtime

These costs are partially offset by reductions (\$1.9 million) due to the utilization of both federal one-time grant funds and the Governor's personal services contingency.

The estimate was increased by a further \$1.03 million general fund at the end of the legislative session. However, the legislature did not fund this additional estimate, and the department will be required to mitigate the anticipated increase.

## DEPARTMENT OF JUSTICE

The legislature provided the Department of Justice with four supplemental appropriations:

- Legal Services Major Litigation – The department is responsible for representing the state in major litigation. The legislature provided an additional \$200,000 to the \$400,000 provided in the 2005 biennium for costs associated with a number of cases.
- Highway Patrol Retirement – General fund is appropriated to fund certain highway patrol retirement costs. Due to an oversight in the previous budget, an insufficient appropriation was made. This appropriation fully funds the state's obligation in FY 2005. These funds will be statutorily appropriated in the 2007 biennium.
- Exempt Staff Payout – The legislature funded the retirement payout costs of a long-time state employee.
- Highway Patrol Settlement – The State of Montana recently settled two lawsuits brought by members of the Montana Highway Patrol. The first case centered around compensation for lunch and the calculation of overtime and cost \$7,650,000. The second involved certain wage claims brought by 16 highway patrol officers and cost \$850,000. The total cost of the two settlements was \$8.5 million, which the legislature chose to completely fund with general fund in FY 2005.

## GOVERNOR'S OFFICE

General fund was provided to the Governor's Office for two purposes:

- Termination payouts for members of Governor Judy Martz's exempt staff who left state government.
- Replacement of federal funds utilized by the previous legislature to fund a portion of the costs of the Mental Health Ombudsman. Medicaid funds appropriated to fund a portion of the costs of the office were determined to be inappropriate by the federal government, resulting in a replacement of those costs with general fund, and a repayment of prior expenditures.

## COMMISSIONER OF POLITICAL PRACTICES

The term of the previous commissioner expired at the end of calendar 2004. The legislature provided funds to allow the office to make all termination payouts, including unused sick and annual leave.

## JUDICIARY

The supplemental for the Judiciary consists of two additions:

- District court operations - The Judiciary assumed the costs of district courts in FY 2003. Costs in the 2005 biennium significantly exceeded the appropriation due primarily to higher variable costs (those costs associated with caseload), particularly in indigent defense. In addition, the Judiciary was able to utilize carryover funds from the 2003 biennium that will no longer be available. This portion of the supplemental appropriation totals \$5.8 million.
- Payments to Montana State Hospital (MSH) - The Judiciary is responsible for paying the costs of commitment to MSH of defendants under a district court order to determine the fitness of an individual to proceed in a criminal case against that individual. MSH assumed these costs in prior years, but will now bill the Judiciary. The legislature added \$1,000,000 to pay MSH. Because these funds will be deposited to the general fund, there is no impact on the ending fund balance.

## DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

The legislature provided two appropriations to the department in FY 2005: 1) fire costs; and 2) payment of all Crow Tribe settlement obligations.

### Fire Costs

The legislature does not appropriate for the costs of fire suppression in HB 2, and does not assume any costs when projecting the ending fund balance. Instead, DNRC pays these costs out of current operating appropriations and is reimbursed through a supplemental appropriation. The supplemental appropriation for fire costs consists of the following parts:

- Payment of direct state FY 2005 fire costs not paid by other sources;
- Reimbursement for costs to fight FY 2004 fires;
- Payment to the U.S. Forest Service for assistance from other entities; and
- The estimated cost of Spring 2005 fires.

As stated earlier, costs in the 2005 biennium were significantly below prior years, despite a severe fire season in FY 2004. Figure 17 shows the supplemental fire appropriations for the past 12 biennia.

The federal government provided funding from two sources:

- FEMA funds are available whenever fires meet the federal criteria, including imminent danger to life and/or property. Because a number of fires met these criteria, FEMA paid a portion of those costs. The state is required to provide a 25 percent match.
- The federal government provided states with a one-time grant in the 2005 biennium to aid states in addressing the fiscal crisis experienced by most states. Montana received a total of \$50 million in

Figure 17  
Supplemental Appropriations for Fire Suppression  
1983 to 2005 Biennium

Biennium	Supplemental Appropriation	Statutory Appropriations	Total
1983	\$0.80	\$0.00	\$0.80
1985	2.90		2.90
1987	3.74		3.74
1989	12.64		12.64
1991	3.00	0.50	3.50
1993	7.94	1.96	9.90
1995	15.50	8.92	24.42
1997	4.47	3.10	7.57
1999	10.55		10.55
2001	33.22	6.20	39.42
2003	9.07	7.01	16.08
2005	2.00		2.00

grants. Governor Martz used these funds to pay fire costs normally paid for by the general fund. If these funds had not been used, the supplemental appropriation would have been about \$37.0 million higher.

While FEMA participation is on going, the grant to the state of \$50 million is a one-time occurrence that cannot be assumed in future years. Therefore, this level of biennial general fund required for fire costs is unlikely to ever be repeated.

### ***Crow Tribe Payments***

As the result of a settlement of a lawsuit, the state was ordered to pay the Crow Tribe \$15 million over 15 years beginning in FY 2000. Both Governor Martz and Governor Schweitzer recommended and the legislature concurred with setting aside funds equal to the entire remaining obligation of \$9.0 million in FY 2005 and eliminating any future obligation on the general fund.

## **DEPARTMENT OF AGRICULTURE**

The legislature provided general fund of \$41,318 for additional testing of animals crossing the Canadian border to determine if there is any evidence of mad cow disease (BSE).

## **DEPARTMENT OF COMMERCE**

The 2003 Legislature passed HB 564, which provided for grants to businesses that met certain job creation criteria. The grants were funded through an INTERCAP loan. Governor Schweitzer recommended and the legislature concurred that these grants were not an appropriate use of the INTERCAP loan program and instead should be funded with general fund. This supplemental appropriation funds all anticipated grants in FY 2005. Any grants in the 2007 biennium will also be funded with general fund.

## **DEPARTMENT OF REVENUE**

The replacement for the failed POINTS system is the Integrated Revenue Information System (IRIS). Upon recommendation of both Governor Martz and Governor Schweitzer, the legislature paid off the entire outstanding loan amount for the IRIS system of \$13.9 million.

## **DEPARTMENT OF ADMINISTRATION**

As part of the payoff of all IRIS related costs, \$2.1 million was provided to the Department of Administration to settle all current contractor payments.

## **OTHER**

In addition to the appropriations made, the legislature approved two contingency appropriations.

- The legislature estimates the amount of common school trust interest and income payments that will be available to support K-12 schools, and provides the remaining funding with general fund. Consequently, if interest and income moneys are estimated too high, there may be insufficient appropriations to fund all statutory obligations for Base Aid or guaranteed tax base. The legislature provided an appropriation of up to \$3 million for this contingency.
- Costs of district courts are estimated in HB 2. The Judiciary was given a contingency appropriation of up to \$500,000 general fund should costs exceed the estimated \$21.0 million.

## FUND BALANCE ADEQUACY/RESERVES

The severe revenue shortfalls that began in FY 2002 and continued into FY 2004 have been overtaken by a period of strong state revenues. This is apparent in the revenue projections considered by the taxation committees in HJR 2 and the sizeable ending fund balance left by the 2005 Legislature after approving significant appropriation increases. However, the legislature must still resolve the school funding lawsuit in a special session in late 2005, there is a potential for an expensive wildfire season, and the legislature did not budget for potential 2007 supplemental appropriations. The legislature needs to be aware of the tenuous nature of the surplus and keep in mind the need to maintain an adequate reserve.

Attaining general fund budget stability means more than setting appropriations equal to anticipated revenues, with a positive ending fund balance serving as a safety net. The adequacy of the state fund balance can signify the difference between whether or not the state is forced to confront the unpleasant consequences of fiscal instability.

### BACKGROUND

Montanans are all too familiar with the consequences of general fund balance inadequacy. In the late 1980's and early 1990's, the state general fund experienced a deficit between revenues and disbursements. Much of the growth in the disbursement rate is a result of natural growth in expenditures due to population, inflation and/or caseload and enrollment increases, as well as supplemental spending for such contingencies as fire suppression. Revenue growth in the state has not always kept pace with expenditure growth. During the 2003 biennium, actual revenue growth was well below forecasts, primarily because of reduced income tax collection and lower interest rates, circumstances that could not be predicted when the 2003 biennium budget was being approved. The Fifty-eighth Legislature began its deliberations with a looming \$230 million deficit, but when the 2003 session ended after legislative actions including a combination of revenue enhancements and expenditure reductions, the projected 2005 biennium fund balance was \$46.2 million (1.8 percent of biennial appropriations).

Recognizing that budgetary imbalances occur, the state can either take a reactive or a proactive approach. During the 1993 and 1995 biennia, the state held three special legislative sessions to deal with budget shortfalls. Another occurred in August of 2002. Although special sessions allow lawmakers the ability to address issues relative to revenues and expenditures, special sessions can cost the taxpayers nearly \$50,000 per day. The need for special sessions is also closely scrutinized by the national agencies that rate the state's debt. Rating agencies also use a state's general fund balance as a percent of revenues as one of the key financial indicators for credit analysis.

Again from a reactive stance, budgetary fluctuation can be temporarily resolved through spending reductions. In accordance with 17-7-140, MCA, the Governor can authorize spending reductions: "...in an amount that ensures that the projected ending general fund balance for the biennium will be at least 1 percent of all general fund appropriations during the biennium." Essentially, the executive branch assumes control of the budget decision-making process by implementing and prioritizing spending reductions. Further, budgetary imbalances can be addressed only from one side of the equation – expenditures – and even then, 50 percent of the spending authority cannot be reduced by the Governor. This means that legislative priorities could potentially get lost in the process.



Because of the cost and disadvantages of taking a reactive approach to budget imbalances, a more effective method may be to approach these issues proactively through provision of adequate fund balance reserves. National fiscal experts such as the National Conference of State Legislatures (NCSL) recommend a reserve fund balance of three to five percent of total appropriations or revenues. Because Montana's budget is implemented on a biennial basis -- resulting in considerably more risk than an annual budgeting process -- the three to five percent should be applied to biennial totals. At a minimum, the budget process should include a general fund ending fund balance of 2.5 percent of total biennial appropriations or revenues. For Montana, with a total general fund budget of \$2.97 billion, this equates to a minimum \$77.0 million ending fund balance. The revenue volatility in recent years might suggest that a higher reserve would be more prudent.

The provision of an adequate general fund balance is essential to achieving a sound financial foundation. The level of fund balance reserves must be sufficient to offset the volatility of revenues and the potential for unforeseen expenditure increases, and as true in recent years, economic uncertainty is predominant. It is even more important since Montana is one of only three states that do not have a rainy day fund provision. During the 2003 legislature, five bills were introduced that included provisions for a rainy day fund. Select concepts from these bills were combined into one bill that passed out of the House but failed to advance in the Senate. In the 2005 session, three bills were introduced, but ultimately, none were adopted.

## 2005 LEGISLATIVE SESSION

The Fifth-ninth Legislature saw a significant turnaround in the revenue picture as it convened in January 2005 with a projected available balance of \$194.2 million for the end of the 2005 biennium. Although the executive and the legislature were compelled to address some of the areas of the budget that suffered from the recent revenue shortfall, both were committed to retaining a reasonable reserve. The budgets submitted by the outgoing Governor Martz and the newly elected Governor Schweitzer both recommended an \$80 million ending fund balance.

The legislative budget for the 2007 biennium included an ending fund balance of approximately \$76.0 million, or 2.5 percent.

## FEDERAL JOBS AND GROWTH TAX RELIEF FUNDS

The federal Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRR) was enacted in late May of 2003. In addition to several tax law changes, the act included \$20 billion in state assistance, half for enhanced federal matching payments for Medicaid and half for flexible assistance to states to support essential government services and unfunded federal mandates. Montana received \$50 million in support for essential state services or unfunded federal mandates and an additional \$21 million in enhanced federal Medicaid payments in FY 2003 and FY 2004.

### TEMPORARY FISCAL ASSISTANCE TO STATES FOR PROVIDING GOVERNMENT SERVICES

Montana received \$25 million in FY 2004 and an additional \$25 million in FY 2005 for general assistance, which was the minimum allocation (0.5 percent of the total federal allocation). The only criteria established for the use of the funds were that the funds must be used to:

- Provide essential government services<sup>1</sup>; or
- Cover the costs of state compliance with any federal intergovernmental mandate<sup>2</sup>, to the extent that the mandate applies to the state and the federal government has not provided funds to cover the costs.

In addition, the state could only use the funds for types of expenditures permitted under the most recently approved budget for the state, meaning that no new programs could be established with the funds.

The legislature chose to defer the decisions on use of the funds to Governor Martz through the budget amendment process, as legislative action would have required a special session. Because the state's budget amendment laws are more stringent than the federal guidelines on use of the funds, Governor Martz could only provide the funds for functions the legislature did not consider and reject, as that would have violated budget amendment laws. The funds could also not be used if that use would have resulted in an obligation of general fund.

Figure 18 shows how Governor Martz chose to allocate the funds. As shown, most of the funds were used to pay for fire suppression in FY 2004. As a result, the state general fund obligation for these costs was very low despite a severe fire season in that year. (For a further discussion, see the Department of Natural Resources and Conversation page C-97 in Volume 4.)

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<sup>1</sup> "Essential government services" was not defined in the act.

<sup>2</sup> The act used the definition of federal intergovernmental mandate used in the Congressional Budget Act of 1974, as amended by the Unfunded Mandates Reform Act of 1995 (P.L. 104-4).

**Figure 18**  
**Allocations by Governor Martz**  
**Federal Relief Funds**  
**2005 Biennium**

Function	Fiscal 2004	Fiscal 2005	Biennium
<u>Authorization</u>			
Defense in Bankruptcy Hearings*			
Public Service Commission**	\$354,685	\$0	\$354,685
Department of Justice**	<u>712,385</u>	<u>0</u>	<u>712,385</u>
Subtotal Bankruptcy Hearings	\$1,067,070	\$0	\$1,067,070
Governor's Office			
Extradition of Prisoners	\$0	\$40,000	\$40,000
Governor's Office Enhancement	\$0	50,000	50,000
Replace Federal Funding for Ombudsman	\$0	60,000	60,000
Made in Montana	<u>0</u>	<u>25,000</u>	<u>25,000</u>
Subtotal Governor's Office	\$0	\$175,000	\$175,000
Department of Livestock			
Meat Inspector	0	23,031	23,031
Department of Natural Resources and Conservation			
Water Rights Data Base	\$0	\$100,000	\$100,000
Fire Costs***	34,827,143	2,252,938	37,080,081
Helicopter	<u>150,000</u>	<u>0</u>	<u>150,000</u>
Subtotal DNRC	\$34,977,143	\$2,352,938	\$37,330,081
Department of Military Affairs			
Winter Storm Emergency	249,682	0	249,682
Department of Corrections			
Populations/Overtime	0	1,041,969	1,041,969
Health and Human Services			
Meals on Wheels	\$257,000	\$257,000	\$514,000
Low Income Energy Assistance*	2,000,000	0	2,000,000
Reduce Vacancy Savings at Institutions	<u>750,000</u>	<u>750,000</u>	<u>1,500,000</u>
Subtotal Human Services	\$3,007,000	\$1,007,000	\$4,014,000
K-12 Education*			
Technology Fund	\$1,750,000	\$0	\$1,750,000
Reading in the Early School Years Grants	450,000	0	450,000
Vocational Education	250,000	0	250,000
OPI - Technical assistance for No Child Left Behind	50,000	0	50,000
OPI - Curriculum Development for Indian Cultural Heritage	50,000	0	50,000
Renewal Commission	25,000	0	25,000
Reduce Vacancy Savings for Montana School for the Deaf and Blind	<u>125,000</u>	<u>116,046</u>	<u>241,046</u>
Subtotal K-12 Education	\$2,700,000	\$116,046	\$2,816,046
Capital Projects*			
Room Renovation	0	133,121	133,121
Repair Capitol steps	<u>450,000</u>	<u>0</u>	<u>450,000</u>
Subtotal Capital Projects	450,000	133,121	583,121
Montana University System*			
General with Distribution Reporting Requirement	\$2,000,000	\$0	\$2,000,000
Community Colleges	450,000	0	450,000
Distance Learning	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Subtotal Higher Education	\$2,700,000	\$0	\$2,700,000
Total Federal Funds	<u>\$45,150,895</u>	<u>\$4,849,105</u>	<u>\$50,000,000</u>

\*Biennial appropriation.

\*\*All expenditures have been reimbursed by Northwestern Energy.

\*\*\*Includes estimate of Spring 2005 fire costs and the net of a payback of \$222,890 in the Department of Military Affairs.

## Impact on 2007 Biennium Budget

The allocations of the funds in the 2005 biennium and the legislative action can fall into five categories: 1) allocations for current programs the legislature chose to continue; 2) allocations for current programs the legislature did not continue; 3) allocations to begin or offset general fund for initiatives that the legislature then continued; 4) one-time offsets of on-going general fund costs that will now revert back to general fund; and 5) one-time projects not continued by the legislature. The following list

summarizes each within those five categories, and briefly discusses legislative action in the 2007 biennium.

### **Allocations for Current Programs the Legislature Chose to Continue**

- Mental health ombudsman (A-60, Volume 3) – The legislature chose to continue the mental health ombudsman position at full funding despite the loss of federal Medicaid funds used for this purpose by adding \$95,000 general fund each year
- Made in Montana Program enhancement (C-145, Volume 4) - \$800,000 general fund was added in addition to the base amount
- Low Income Energy Assistance enhancement (B-23, Volume 3) – Traditionally, the legislature has appropriated only the anticipated federal grant. The enhancement of funding was continued in the 2007 biennium with the appropriation of \$1.0 million general fund
- Meals on Wheels (B-147, Volume 3) – Funding for Meals on Wheels was among the programs identified for reduction to meet the general fund appropriation in the 2005 biennium until replacement with the temporary federal funds. The legislature funded the program at \$567,000 each year, adding \$340,000 general fund annually
- Elimination of some vacancy savings in MSDB (E-34 and E-36, Volume 4) – No vacancy savings was taken on the Education or Student Services Programs at MSDB
- Enhanced vocational education funding (E-14, Volume 4) – In addition to present law adjustments, general fund of \$285,000 per year was added (these amounts are designated for vocational education or career and technical education)
- Enhanced community colleges funding (E-92, Volume 4) – The legislature made a \$900,000 lump sum appropriation in addition to the formula amounts

### **Allocations for Current Programs the Legislature Did Not Continue**

- Governor's Office enhancements – The legislature made several adjustments to the Governor's Office budget. However, because no specific purpose was identified for the use of the federal funds, it cannot be said that those specific uses were continued
- Vacancy savings at institutions – The executive recommended and the legislature funded the institutions with a 4 percent vacancy savings rate applied
- Enhanced higher education – The funds provided by Governor Martz were for "grants and student tuition relief". While it cannot be stated that the specific use was continued, the executive recommended and the legislature funded certain additional costs at a higher general fund to tuition ratio than previously utilized. The legislature also provided an additional \$470,000 for need-based student grants in the Montana Higher Education Grant Program (MHEG) to continue supporting student assistance grants at a higher rate

### **Allocations to Begin Initiatives That Were Then Continued**

- Meat inspector (C-89, Volume 4) – The legislature continued the match for an additional meat inspector with general fund that was matched with the federal funds in FY 2005
- Water rights database (C-114, Volume 4) – The legislature appropriated \$400,000 general fund to continue work on the database
- DNRC helicopter (C-121, Volume 4) – DNRC received \$200,000 general fund to build an additional helicopter
- Distance learning (E-65, Volume 4) – The legislature provided an additional \$300,000 general fund to continue the distance learning initiative

- o Indian Education for All (E-1, Volume 4) – A total of \$3.4 million general fund was appropriated to continue various Education for All initiatives in the Office of Public Instruction and higher education, including curriculum development

### **One-Time Offsets of On-Going General Fund Costs**

Governor Martz used most of the funds available from the federal government to offset on-going general fund costs.

- o State responsibility fire costs (C-97, Volume 4) – Any costs of fires for which the state is responsible will be funded with general fund in the 2007 biennium
- o Extradition of prisoners costs (A-44, Volume 3) – The federal funds were used in FY 2005 for increases over the appropriated amount. The legislature provided an additional \$40,800 each year over the FY 2004 base expenditures
- o Corrections operations costs (D-52, Volume 4) – The federal funds were used to reduce the anticipated supplemental appropriation request for the Department of Corrections due to increased populations and overtime costs. The 2005 Legislature funded all anticipated populations increases in the 2007 biennium, but did not fully fund all anticipated overtime costs

### **One-Time Projects/Uses**

- o Costs of Northwestern bankruptcy (PSC/Justice)
- o Winter storm emergency
- o Technology funds
- o Technical assistance for No Child Left Behind
- o Early reading
- o Renewal commission
- o Capitol projects (stairs and room renovation)

## **MEDICAID PROVISIONS**

The act provided increased federal matching rates for most Medicaid services from the period of April 1, 2003 through June 30, 2004. In general, states received a 2.95 percent increase in the federal share of Medicaid services costs. As a result, the general fund appropriations for Medicaid were higher than necessary, and the department reverted about \$4 million in FY 2003 and about \$14.4 million in FY 2004 to the general fund. In addition, \$2.9 million general fund that would have reverted was used for three purposes within the Department of Public Health and Human Services:

- o Expansion of Children's Health Insurance Program (CHIP) enrollment at 10,900 - \$0.6 million
- o On-going shortfalls in the Child Support Enforcement Division (CSED) - \$1.0 million
- o Payment of all TANF maintenance of effort on a state fiscal year, as well as federal fiscal year basis - \$1.3 million

### ***Impact on 2007 Biennium Budget***

The legislature replaced all additional federal participation with general fund, maintaining services to those who had been eligible in the base year. LFD staff estimates that the legislature added \$29 million general fund in the 2007 biennium to replace the expired additional federal matching rate. When coupled with the reduction in the federal matching rate due to an improvement in Montana's relative economic standing compared to other states, the general fund cost of maintenance of Medicaid (including CHIP) increased by \$54 million in the 2007 biennium. In addition, the legislature provided additional funding to maintain CSED operations, and expanded CHIP enrollment to 13,900 (this expansion was funded with a combination of general fund and I-149 state special revenue funds).

## INFORMATION TECHNOLOGY MAJOR PROJECTS

The 2005 Legislature funded several major information technology projects, which are summarized below.

### IRIS

The 2003 Legislature, through SB 271, directed and authorized funding to begin replacing the Process Oriented Integrated Tax System (POINTS). The system replacement project, known as the Integrated Revenue Information System (IRIS), uses a commercial off-the-shelf computer system to provide the revenue administration, storage, and reporting capacities to administer state tax revenues. With funding from the 2003 Legislature, the project administered by the Department of Revenue, in cooperation with the office of chief information officer, developed IRIS systems to administer the following taxes:

- Rental vehicle
- Lodging facilities use
- Cigarette
- Withholdings
- Combined oil and gas
- Corporate license
- Individual income

Funding for the 2005 biennium system development work was through authority to acquire and expend loan proceeds. Concerns were raised as to the constitutionality of the mechanism used to authorize the issuance of state debt to fund the project. Because of these concerns, the 2005 Legislature appropriated funds to retire the debt and to complete the project in the 2007 biennium. Figure 19 identifies the funding for IRIS authorized by the 2005 Legislature. Funding for the 2007 biennium will develop IRIS modules for the remainder of the tax types not converted to IRIS in the 2005 biennium and phase-out POINTS.

Figure 19 IRIS Project Funding Provided by 2005 Legislature (\$ Millions)				
Use	Department Receiving Appropriation	Biennium	Bill	General Fund
Pay off IRIS loan and finish contractor payments	Department of Revenue	2005	HB 745	\$13.9
Finish contractor payments on IRIS phase one	Department of Administration	2005	HB 745	2.1
Replace the remainder of POINTS and shutdown POINTS	Department of Revenue	2007	HB 2	4.0
POINTS data transition, cleanup, and conversion	Department of Revenue	2007	HB 2	1.4
Total Funding				<u>\$21.4</u>

### PROPERTY TAX SYSTEM

When the 1997 Legislature passed HB 188 that authorized issuance of general obligation bonds for information technology projects, one of which was for the integrated revenue and tax system of the Department of Revenue, it anticipated replacing the property tax system used by the department. Replacement of the property tax system was a part of the POINTS project until project issues led to a decision by the executive to abandon replacing the property tax system as a part of the project. The 2005 Legislature funded a project to replace the existing, obsolete property tax system that is no longer supported by the vendor, with a new commercial off-the-shelf system. The legislature appropriated

one-time funding of \$5.5 million general fund to develop and implement a new system that will interface with IRIS, but not be a component part of IRIS, for completion in the 2007 biennium.

## **INTEGRATED FINANCIALS PROJECT**

The Department of Transportation operates a number of computer systems to plan, schedule, and administer department functions, projects, finances, and resources. The legislature funded a long-term project to integrate department management systems so the various management systems will interface with each other and the Statewide Accounting, Budgeting, and Human Resources System (SABHRS), instead of continuing to operate independently. The project will also move financial systems from the mainframe environment to the Oracle environment. In funding the project, the legislature appropriated \$448,000 state special revenue to add 6.00 FTE computer programmers to integrate the systems over multiple biennia. The project is expected to last through the 2011 biennium and cost \$10 million in aggregate when completed. However, costs and schedules are heavily reliant upon future upgrades to SABHRS.

## **JUDICIARY INFORMATION TECHNOLOGY - CASE MANAGEMENT SYSTEM**

The legislature approved \$1.1 million in general fund to purchase case management systems and related technology for district courts and courts of limited jurisdiction. This appropriation was \$0.2 million less than the amount requested by the Judiciary. The Judiciary plans to delay the deployment of a jury management system to adhere to the limitation in funding.

Montana's courts and judicial offices use varying levels of information technology to meet their case management needs. The Supreme Court, the Water Court, and Montana's youth courts do not have automated case management systems. The district courts use a case management system that was developed and deployed by in-house technical staff from the Office of the Supreme Court Administrator (OCA) during the early 1990's. Approximately one-half of the courts of limited jurisdiction use a case management system called FullCourt, which began being installed in 2001. The remaining courts of limited jurisdiction use an older case management system provided by local government or by the OCA. The OCA is responsible for the installation and ongoing administration of the case management systems that are used by the courts of limited jurisdiction. As a result of the approval of this funding, the Judiciary committed to complete the purchase and installation of FullCourt in all district courts and the remaining courts of limited jurisdiction during the 2007 biennium.

The legislature asked the Judiciary to correct two major problems with the Judiciary's current information technology plan. First, courts do not use similar systems, and second, the systems that are used are not administered from a central database. The Judiciary stated that all district courts and courts of limited jurisdiction would have the use of FullCourt by the end of the 2007 biennium. The Judiciary also stated that these systems would be managed by a central database that is currently being deployed using a federal grant. These systems will be able to communicate with each other or with other court levels. The Judiciary will move from operating and maintaining 238 independent systems to one integrated centrally managed system. This system will allow for the timely extraction and reporting of caseload data on a consolidated basis. This system will also allow for upgrades from a centralized site.

## ECONOMIC DEVELOPMENT

This section discusses major legislation that address economic development in Montana. Please note that it does not discuss any current programs, including statutory or ongoing agency programs.

The Schweitzer administration advocated economic and community development as a major priority of the 2005 legislative session. The 2005 Legislature passed legislation or made appropriations that will have an impact upon economic and community development efforts in three distinct categories: 1) direct investment; 2) tax related initiatives; and 3) "other." The direct investment category includes legislation that provides an appropriation for economic and community development related activities. The tax related initiatives category includes legislation enacted to stimulate business retention, expansion, or research through tax incentives. The "other" category includes all other legislation, some of which may be associated with bonding activity, other types of financing, or regulatory changes associated with removing or reducing impediments to economic and community development. Figure 20 below shows the majority of legislation passed by the 2005 legislature for economic development.

Figure 20 Legislation on Economic Development 2007 Biennium				
Description	Legislation	Source*	Auth. Source	
<b>Direct Investments</b>				
Big Sky Economic Development Program	HB 249	GF	HB 249	\$2,900,000
Worker Training Program*	HB 270	GF	HB 2	2,800,000
L&C bicentennial license plates	HB 301	SSR	HB 301	75,147
Great Plains Dinosaur Park	HB 423	GF	HB 423	500,000
Main Street Program	HB 481	SSR	HB 2	250,000
Incr. grants from coal tax shared account	HB 482	SSR	HB 2	389,606
Military installations in Montana	HB 713	GF	HB 713	100,000
Made in Montana Program	SB 329	GF	HB 2	<u>800,000</u>
Total Direct Investments				\$7,814,753
<b>Tax Initiatives</b>				
Big Sky on Big Screen Act	HB 584	GF	HB 584	841,320
Montana equity capital investment act	SB 133		SB 133	<u>24,000,000</u>
Total Tax Initiatives				\$24,841,320
<b>Other</b>				
Freight Rail Act	HB 757	SSR	HB 757	3,444,000
Oil, gas, and coal resource account	HB 758	SSR	HB 758	<u>0</u>
Total Other				<u>\$3,444,000</u>
Total appropriations for economic development				<u>\$36,100,073</u>
*The Legislature appropriated \$2.17 million for the worker training program in HB 271 for FY 2005.				
*Source of funds; GF-general fund, SSR-state special revenue				

## LEGISLATION ENACTED

The following discusses each of the individual legislative actions listed in the figure in more detail.

### *Direct Investments*

**HB 249** establishes the big sky economic development fund, a sub fund within the permanent coal severance tax trust, with an initial infusion of \$20 million. Through June 30, 2025, 25 percent of the coal severance tax revenues to the permanent coal severance tax trust not required for other purposes will be deposited in the big sky economic development fund.



Interest generated from the fund will be transferred monthly to a state special revenue account that is statutorily appropriated to the Department of Commerce. After the cost of administration, 75 percent of the remainder must be used for grants and loans to local governments for job creation projects, while 25 percent will support the certified regional development corporations for economic development activities. The big sky economic development fund is anticipated to generate \$1.3 million in FY 2006 and \$1.6 million in FY 2007. The fund will increase to \$25.5 million at the end of the 2007 biennium and will continue to increase as the sub fund grows and general fund will be reduced by a like amount.

HB 270 transferred the New Worker Training Program from the Governor's Office of Economic Opportunity to the Department of Commerce and revised the program funding mechanism. This program funds businesses that create jobs meeting a minimum salary threshold and having at least 50 percent of their sales outside of Montana. Each grant is not to exceed \$5,000 for each full-time employee that is being trained. The legislature approved the transfer of 2.00 FTE and appropriated \$2.8 million of one-time-only general fund in HB 2 for the New Worker Training Program.

The program was approved by the 2003 Legislature and funded with the INTERCAP loan program through the Board of Investments in the Department of Commerce. Legislative auditors questioned the use of the loan program and the state's bond counsel agreed, by stating "no state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature." The Worker Training program was held in abeyance until July 1, 2005 when the new funding switch will take place.

HB 271, a companion bill to HB 270, provided for a FY 2005 supplemental appropriation of \$2.17 million general fund for the New Worker Training Program.

HB 301 continues the sale of Lewis and Clark bicentennial specialty license plates and provides that this revenue be allocated to the Department of Commerce and Montana Historical Society, the successors to the Lewis and Clark Bicentennial Commission. Beginning January 1, 2007, the agencies will use the money deposited in the special revenue accounts to support projects related to Lewis and Clark activities. The license plate revenue is statutorily appropriated 75 percent to the Department of Commerce and 25 percent to the Montana Historical Society.

HB 423 provides for a \$500,000 biennial general fund appropriation to establish a Great Plains Dinosaur Park in Malta, MT.

HB 481 establishes a Main Street program in the Department of Commerce to be developed in conjunction with the National Trust for Historic Preservation. The purpose of the program is to assist communities in restoring and retaining the historic character of their downtown areas and historic commercial districts. The legislature appropriated \$250,000 of one-time-only state special revenue over the biennium from the highways non-restricted account.

HB 482 increases the amount of coal severance tax revenues flowing into the coal tax shared account from 7.75 percent to 8.36 percent. Impacted entities include the Coal Board in the Department of Commerce, Conservation Districts in the Department of Natural Resources and Conservation, Growth Through Agriculture in the Department of Agriculture, and the State Library. The legislature appropriated increases in state special revenue by \$389,606 to implement the provisions in HB 482.

HB 713 appropriated \$100,000 in general fund to create a task force to conduct a mission assessment for military and National Guard installations in Montana and to promote the establishment of new

installations and expanded missions in the state. Any funds not expended specifically for the purposes of this bill will revert to the general fund. This bill will seek to enhance the importance of military installations to the Montana economy.

SB 329 clarifies the state's role in the Made in Montana program in the Department of Commerce by allowing the Department to provide training and assistance to Montana small businesses and entrepreneurs to expand markets for Made in Montana products. The legislature added 1.00 FTE and \$600,000 general fund over the 2007 biennium in HB 2 for the Made in Montana Program. An additional \$200,000 general fund was also approved by the legislature in HB 2 as one-time-only funding on a restricted basis.

### ***Tax Initiatives***

HB 584 establishes the Big Sky on the Big Screen Act. HB 584 requires production companies to apply to the Department of Commerce for state certification of a production in order to qualify for the tax credits enumerated in the bill. The application fees established in the bill are deposited in a state special revenue account and statutorily appropriated in an equal amount to the Department of Commerce and the Department of Revenue. It is anticipated that eligible qualified employment and production expenditures tax credits will be \$841,320 over the 2007 biennium. Being these are tax credits, this amount will be a direct reduction in general fund revenue over the biennium.

SB 133 establishes the Montana Equity Capital Investment Act to provide investment incentives to nourish creation of a private seed and venture capital industry to fund academic, technological, and innovative companies by creating a Montana Equity Fund and Montana Equity Capital Investment Board. The bill also authorizes the issuance of tax credits to investors in the Montana Equity Fund and requires the board to charge an annual fee to the designated investor group for administration of the Act. The board, which consists of five voting members, is administratively attached to the Department of Commerce.

### ***Other***

HB 757 established the Montana Essential Freight Rail Act, providing federal funding for a revolving loan account administered by the Department of Transportation. The Board of Investments in the Department of Commerce may issue and sell essential freight rail revenue bonds to finance the costs of the projects contemplated in the bill and to service bond debt.

HB 758 creates a new oil, gas, and coal natural resource state special revenue account, which dedicates revenue to the Department of Commerce and the Department of Revenue. Revenues for the new account come from the coal severance tax and the oil and gas production tax.

As stated on the previous page, HB 482 allocates 8.36 percent of the coal severance tax revenues to the coal tax shared account for four entities. HB 758 would reduce this amount to 5.46 percent, and the difference of 2.90 percent would go to the new account and be administered by the Coal Board in the Department of Commerce. The Coal Board would no longer be a participant in the coal tax shared account. The Department of Revenue administers the oil and gas portions of the bill. There is no fiscal impact beyond what was addressed in HB 482.

## PENSION FUNDS – UNFUNDED LIABILITIES

The Montana Constitution requires that the public retirement systems be funded on an actuarially sound basis. A significant decline in the market value of public retirement plan investments from FY 2000 through FY 2003 has resulted in significant actuarial losses to the retirement plans. Actuarial valuations for the Public Employees' Retirement System (PERS), Game Wardens' and Peace Officers' Retirement System (GWPORS), Sheriffs' Retirement System (SRS), and the Teachers' Retirement System (TRS) as of July 1, 2004, have determined that expected contributions will not be sufficient to pay the normal costs and amortize the unfunded actuarial liabilities within the statutorily required 30 years.

The legislature considered, but deferred taking action, at the request of the Governor, on legislation that would have raised the employer contribution rates for these retirement systems. The Governor's office indicated they anticipated addressing this issue prior to the next regular session of the legislature, possibly in conjunction with the anticipated December 2005 Special Session. The legislature passed HJR 42 requesting a legislative study on how public employee retirement funds are invested and how investment performance, retirement plan benefits, and legislative policy decisions interact to affect the actuarial soundness of the public employee retirement plans and employers' funding obligations. Legislators made the study the top priority.

The courts have determined that retirement benefits are contractual obligations of the government entity to the current employees and retirees. For this reason, retirement benefits cannot be reduced to address the funding deficiencies. As such, legislation before the 2005 Legislature focused primarily on increasing the employer contributions for the affected pension systems. The fiscal impacts that would have resulted from passage of the proposed bills are shown in Figure 21. The figure shows that the total fund impact to address only the change in employer contribution rates in the 2007 biennium would have been \$30.0 million. Since the rate increases were phased in over a number of biennia, the 2009 biennium impact was projected to be nearly double the 2007 biennium amount. In the 2011 biennium, TRS employers would have experienced a third rate increase for a \$43 million projected impact.

When the legislature addresses the pension funding issue, the actuarial funding of the systems could degrade further if investment returns are less than assumed returns, or could improve if returns are higher than anticipated. In either case, the legislature will likely be faced with addressing recommendations to change employer contribution rates or change the policies for managing pension assets.

Figure 21

### Fiscal Impacts of Pension Fund Legislation 2005 Legislature

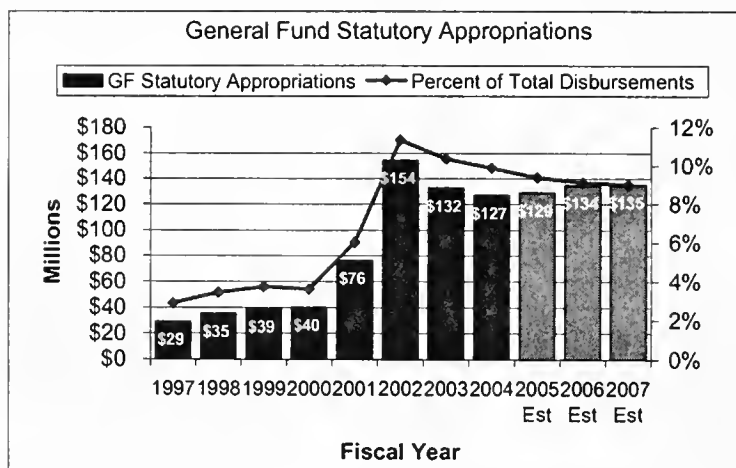
	Biennium		
	2007	2009	2011
<b>PERS</b>			
State			
General fund	\$177,100	\$354,200	\$0
Other	<u>5,047,900</u>	<u>10,095,800</u>	<u>0</u>
State Total	\$5,225,000	\$10,450,000	\$0
University System	1,222,000	2,444,000	0
K-12 Schools	1,604,000	3,208,000	0
Local Government	<u>4,245,000</u>	<u>8,490,000</u>	<u>0</u>
PERS Total	\$12,296,000	\$24,592,000	\$0
<b>SRS</b>			
State			
General fund	\$16,000	\$32,000	\$0
Other	<u>20,000</u>	<u>40,000</u>	<u>0</u>
State Total	\$36,000	\$72,000	\$0
Local Government	<u>705,000</u>	<u>1,410,000</u>	<u>0</u>
SRS Total	\$741,000	\$1,482,000	\$0
<b>GWPORS</b>			
State			
General fund	\$68,000	\$136,000	\$0
Other	<u>30,000</u>	<u>60,000</u>	<u>0</u>
State Total	\$98,000	\$196,000	\$0
University System	<u>4,000</u>	<u>8,000</u>	<u>0</u>
GWPORS Total	\$102,000	\$204,000	\$0
<b>TRS</b>			
State			
General fund	\$76,000	\$152,000	\$197,600
Other	<u>36,000</u>	<u>72,000</u>	<u>93,600</u>
State Total	\$112,000	\$224,000	\$291,200
University System	2,538,000	5,076,000	6,598,800
K-12 Schools	<u>13,810,000</u>	<u>27,620,000</u>	<u>35,906,000</u>
TRS Total	\$16,460,000	\$32,920,000	\$42,796,000
<b>Total for All Pension Funds</b>			
State			
General fund	\$337,100	\$674,200	\$197,600
Other	<u>5,133,900</u>	<u>10,267,800</u>	<u>93,600</u>
State Total	\$5,471,000	\$10,942,000	\$291,200
University System	3,764,000	7,528,000	6,598,800
K-12 Schools	15,414,000	30,828,000	35,906,000
Local Government	<u>4,950,000</u>	<u>9,900,000</u>	<u>0</u>
All Pensions Total	<u>\$29,599,000</u>	<u>\$59,198,000</u>	<u>\$42,796,000</u>

# GENERAL FUND/STATE SPECIAL STATUTORY APPROPRIATIONS

## GENERAL FUND

Statutory appropriations are a special kind of legislative appropriation. Unlike temporary appropriations that expire in two years (such as those in the general appropriations act), statutory appropriations are, as their name suggests, in statute and are not part of the biennial budgeting process. As such, they are not automatically reviewed by the legislature and are not subject to the biennial priority setting process like temporary appropriations (such as those in HB 2). Since the appropriations are in statute, they remain in place until removed or changed by legislation. The legislature has made various attempts to not lose sight of these appropriations. In 1985, Representative Bardanouve sponsored legislation that required all valid statutory appropriations to be contained in a list in 17-7-502, MCA. That list provides statutory citations for each statutory appropriation. Although there are currently 73 sections listed (prior to the 2005 session), some sections have multiple statutory appropriations and each appropriation listed in statute could have multiple appropriations established on the state accounting system. Of these, 16 sections statutorily appropriate general fund. In 1993, Senator Grosfield successfully sponsored legislation (SB 378) that required a review of all statutory appropriations every two years by the Legislative Finance Committee. This requirement was removed by the 2001 legislature. Statutory appropriations are intended for only limited situations, and guidelines for the appropriateness for establishing them are specified in 17-1-508, MCA.

Figure 22



The significance of statutory appropriations lies not in the number of them, but rather in the amount of money authorized to be spent and if the authorizations still reflect the priorities of the current legislature. All statutory appropriations are available for the legislature to review, prioritize, and change if desired. Figure 22 on the left illustrates the amount of general fund spent through statutory appropriations from FY 1997 through FY 2004 and estimated amounts from FY 2005 to FY 2007. From FY 1997 to FY 2004, general fund expenditures from statutory appropriations increased \$98 million and,

in FY 2004, comprised 10 percent of all general fund expenditures. For the 2007 biennium, \$269 million general fund is expected to be spent with statutory appropriations. The initiation of the county entitlement program in FY 2002 (enacted by HB 124 in the 2001 session) accounts for most of the large increase shown in FY 2002. The increase in FY 2001 is largely due to payment of wildfire costs from the summer of 2000.

The 2005 legislature enacted seven laws that increase general fund spending from statutory appropriations by \$1 million over the 2007 biennium. These laws affect general fund statutory appropriations by: 1) creating new statutory appropriations; 2) eliminating statutory appropriations; or 3) changing amounts appropriated by existing statutory appropriations:

- SB 146 established a statewide public defender system. To compensate the state for the additional costs of assuming local government's share of the system, statutorily appropriated payments in the county entitlement program are reduced \$2,559,141 beginning FY 2007.
- HB 756 encourages the production of biodiesel by providing a tax incentive (on the special fuel license tax paid by a licensed distributor) payable to producers for increases in annual production for the first three years of production. The incentive is 10 cents per gallon for all biodiesel produced the first year and 10 cents per gallon for increases in the second and third years. Incentives are available only on production for which the fuel tax has been paid and are paid on a fiscal year basis to biodiesel producers. The tax incentive ends July 1, 2010. The payments are statutorily paid from the general fund by the Department of Transportation. The first payment of \$240,000 is expected in FY 2008.
- HB 776 provides refunds for taxes paid on biodiesel by distributors or retailers. The refund is 2 cents per gallon for distributors and 1 cent per gallon for retailers and applies to fuel distributed or purchased after June 30, 2005. Anticipated tax refunds of \$48,000 beginning FY 2007 are statutorily paid by the Department of Transportation from the general fund. The statutory appropriation becomes effective when: 1) an ethanol plant is certified as being operational and producing fuel in Montana; and 2) the net working capital in the restricted highway account is at least \$20 million (excluding bond proceeds) on June 20 following the date on which the previous condition was met.
- HB 169 revises laws relating to the enforcement of the tobacco settlement agreement. It eliminates a narrowly based general fund statutory appropriation to spend money recovered for investigation expenses, attorney fees, and other costs, and creates a new statutory appropriation that covers the same money, but with a broader coverage of applicable statute. No expenditures were anticipated from the eliminated statutory appropriation, but \$30,000 general fund is expected to be spent with the new statutory appropriation.
- HB 540 authorizes \$67.5 million in additional general obligation bonds. The general fund debt service payments of \$625,857 beginning FY 2007 are paid with the existing statutory appropriation for debt service.
- SB 370 allows detention officers who are members of the public employees' retirement system to become members of the sheriffs' retirement system before May 1, 2006. It is expected that all detention officers will switch. Since the state makes general fund contribution to the public employees' retirement system with a statutory appropriation (no payments are made to the sheriffs' retirement system), general fund appropriations are reduced by an estimated \$12,216 in FY 2006 and \$12,735 in FY 2007.
- HB 102 eliminates the need for two HB 2 language appropriations and three HB 2 appropriations to transfer money to the highway patrol retirement fund and replaces them with two general fund statutory appropriations of \$350,000 and \$890,000 each year.

Figure 23 shows each individual general fund statutory appropriation, including existing ones modified and new ones enacted by the 2005 legislature for FY 2005-2007. The largest statutory appropriation of general fund occurs under 15-1-121, MCA. For the 2007 biennium, \$170 million (including adjustments made in the 2005 session) is expected to be spent for entitlement payments to counties and tax increment financing districts. Other large statutory appropriations of general fund in the 2007 biennium include:

- \$35.8 million of transfers to retirement funds (Title 19, MCA)
- \$37.5 million to service the debt on bonding issues approved by past legislatures and the 2005 legislature (17-7-502, MCA)

- \$12.1 million of coal trust interest (that is deposited to the general fund) to fund economic development programs (15-35-108, MCA)

Figure 23

General Fund Statutory Appropriation Estimates  
Fiscal Years 2005-2007  
(in millions)

MCA Cite	Bill/Purpose	Fiscal 2005	2007 Biennium		
			Fiscal 2006	Fiscal 2007	Total
<u>Retirement</u>					
19-9-702	Ins Prem Tax-Fire/Polc Ret 19-9-702-SA	\$7.591	\$7.995	\$8.419	\$16.414
19-13-604	Prem Tax-Fire/Pol 19-13-604-SA	6.857	7.198	7.556	14.754
19-17-301	Prem Tax-Fire/Pol 19-17-301-SA	1.563	1.704	1.857	3.561
19-18-512(1)	Prem Tax-Fire/Pol 19-18-512-SA	0.245	0.250	0.265	0.515
19-19-305(1)	Prem Tax-Fire/Pol 19-19-305-SA	0.250	0.250	0.250	0.500
19-19-506(4)	Prem Tax-Fire/Pol 19-19-506-SA	<u>0.021</u>	<u>0.021</u>	<u>0.021</u>	<u>0.041</u>
Sub-total		\$16.527	\$17.417	\$18.368	\$35.784
<u>Economic Development</u>					
15-35-108(7)(b)(i)	Coop Developmental Center NMC	\$0.065	\$0.065	\$0.065	\$0.130
15-35-108(7)(b)(ii)	Add Vision 2005-SA	1.250	1.250	1.250	2.500
15-35-108(7)(b)(iii)	Research & Commercialization	0.000	3.650	3.650	7.300
15-35-108(7)(b)(iii&iv)	Economic Development	1.100	1.100	1.100	2.200
15-35-108(7)(b)(iv)	Reimbursement of TIFF-SA	<u>0.600</u>	<u>0.000</u>	<u>0.000</u>	<u>0.000</u>
Sub-total		\$3.015	\$6.065	\$6.065	\$12.130
<u>Other</u>					
10-3-312(1)	Emergency Appropriations	\$0.020	\$0.000	\$0.000	\$0.000
15-1-111(6)	Local Asst-Prop Red PA-SA	4.865	3.613	2.408	6.021
15-1-121(3)	HB124 Combined Distribution - SA	81.331	83.711	86.292	170.003
15-1-121(6)	HB124 TIFF Distribution - SA	3.608	1.475	1.475	2.950
17-3-106(2)	Cash Management Interest-SA	0.009	0.009	0.009	0.019
17-6-101(6)	Banking Charges-SA	1.241	1.266	1.293	2.559
17-7-502(4)	TRANS Debt Service and Issuance Costs	0.000	0.000	0.000	0.000
17-7-502(4)	Transfer to Debt Service A/B Bond-SA	16.941	18.395	18.524	36.918
19-20-604	Teachers GABA 19-20-604-SA	0.685	0.699	0.720	1.419
19-3-319	Local Government PERD 19-3-319 -SA	<u>0.418</u>	<u>0.435</u>	<u>0.452</u>	<u>0.887</u>
Sub-total		\$109.118	\$109.604	\$111.173	\$220.777
<u>New - 2005 Legislature</u>					
15-1-121(3)	SB 146-Change in HB124 combined distribution	\$0.000	\$0.000	(\$2.559)	(\$2.559)
15-32-xxx	HB 756-Biodiesel tax incentives (begins FY2008)	0.000	0.000	0.000	0.000
15-70-3xx	HB 776-Biodiesel tax refunds	0.000	0.000	0.048	0.048
16-11-405	HB 169-Eliminated GF (none estimated)	0.000	0.000	0.000	0.000
16-11-509	HB 169-Fines & cost recovery on tobacco settle.	0.000	0.030	0.030	0.060
17-7-502(4)	HB 540-Additional MUS and state bonding	0.000	0.000	0.626	0.626
19-3-319	SB 370-Change in PERD local retirement	0.000	(0.012)	(0.013)	(0.025)
19-6-4xx	HB 102-Supplemental benefits for highway patrol	0.000	0.350	0.350	0.700
19-6-404(2)	HB 102-To highway patrol retirement fund	<u>0.000</u>	<u>0.890</u>	<u>0.890</u>	<u>1.780</u>
Sub-total		\$0.000	\$1.258	(\$0.628)	\$0.630
Total		\$128.660	\$134.343	\$134.978	\$269.321

## STATE SPECIAL

It is estimated that \$338 million of state special revenue will be spent through statutory appropriations in the 2007 biennium. The 2005 legislature enacted 20 laws that increase the amount appropriated by \$34 million. These laws affect the appropriations by: 1) changing or eliminating existing statutory appropriations or changing the amount of revenue deposited in accounts that are statutorily appropriated - \$14 million; or 2) enacting new statutory appropriations - \$20 million. Figure 24 shows amounts estimated from existing statutory appropriations and from new ones enacted by the 2005 legislature.

Figure 24  
Existing & New State Special Statutory Appropriations  
Fiscal Years 2005-2007  
(in millions)

MCA Cite	Bill/Purpose	Fiscal 2005	2007 Biennium		Total
			Fiscal 2006	Fiscal 2007	
<u>Existing Statutory Appropriations</u>					
Multiple	Varied dedicated uses	\$146.757	\$151.805	\$151.976	\$303.781
<u>Changes to Existing SA - 2005 Legislature</u>					
20-9-622(1)(b)	HB 2-Guarantee account for schools districts		(\$0.005)	\$0.005	\$0.000
75-1-1101(3)	HB 7-Environmental contingency account		0.057	0.000	0.057
23-5-631(5)	HB 204-Eliminate SA for gambling inspection fees		(0.057)	(0.056)	(0.113)
17-7-502(4)	HB 299-Debt service for DOT building bonds		0.000	0.099	0.099
2-15-151	HB 301-Eliminate SA of L&C license plate fees		0.000	0.000	0.000
20-9-622(1)(b)	HB 447-Guarantee account for schools districts		(0.129)	(0.337)	(0.466)
15-36-332(8)	HB 535-O&G revenue to counties & cities		(0.412)	(0.336)	(0.748)
15-36-332(8)	HJ 2-Increased O&G revenue to counties & cities		3.512	7.105	10.617
15-36-332(8)	HJ 2-Increased O&G revenue to guarantee account		0.477	1.003	1.480
15-37-117(3)	HB 700-Metalliferous mines tax to counties		0.092	0.095	0.187
17-7-502(4)	HB 748-Debt service for DNRC water systems		0.000	0.380	0.380
15-36-332(8)	HB 758-O&G revenue to counties & cities		<u>1.262</u>	<u>1.399</u>	<u>2.661</u>
Sub-total			\$4.797	\$9.358	\$14.155
<u>New Statutory Appropriations - 2005 Legislature</u>					
5-11-4xx	HB 28-Legislative branch reserve account		\$0.564	\$0.000	\$0.564
44-1-5xx	HB 35-Highway patrol salary increases		3.314	6.627	9.941
23-4-105	HB 53-% withholdings from horse race wagers		0.000	0.000	0.000
23-4-202	HB 53-% withholdings from horse race wagers		0.000	0.000	0.000
23-4-204	HB 53-% withholdings from horse race wagers		0.000	0.000	0.000
23-4-302	HB 53-% withholdings from horse race wagers		0.000	0.000	0.000
23-4-304	HB 53-% withholdings from horse race wagers		0.000	0.000	0.000
90-1-xxx	HB 249-Earnings from big sky coal subtrust		1.338	1.581	2.919
90-1-1xx	HB 301- L&C license plate fees to Commerce & MHS		0.000	0.075	0.075
41-5-20xx	HB 414-Unspent GF to youth court prevention pgms.		0.600	0.485	1.085
15-31-xxx	HB 584-fee to receive tax credits for film production		0.018	0.018	0.036
10-2-603	HB 728-GF transfers for veterans' cemeteries		0.554	0.454	1.008
60-11-1xx	HB 757-Loans for railroad transportation facilities		<u>2.100</u>	<u>2.259</u>	<u>4.359</u>
Sub-total			\$8.487	\$11.499	\$19.986
Total		\$146.757	\$165.089	\$172.833	\$337.922

## GENERAL FUND NON-BUDGETED TRANSFERS

The Montana Constitution requires that all money paid out of the state treasury, except interest paid on the public debt, be done with an appropriation. However, the state treasury consists of numerous accounts and, with proper authorization, money may be transferred from one account to another without an appropriation. This results in less money in one account for the programs it funds and more in another. Like statutory appropriations, these transfers and their authorizations are in statute and are not part of the biennial budgeting process, yet they affect the amount of money available for the legislature to appropriate for specific programs. Because they are in statute, they remain in place until removed or changed by legislation.

Since FY 2000, increased amounts of money have been transferred out of the general fund to other accounts that fund non-general fund programs. As illustrated in Figure 25, this amount has grown from \$0 in FY 1999 to \$19 million in FY 2002 (about 1.4 percent of total general fund expenditures), and transfers are estimated to be over \$54 million in the 2007 biennium. These transfers reduce the amount of money in the general fund that is available for general fund programs and increase the amount available for other non-general fund programs. Figure 26

shows each non-budgeted general fund transfer, including 13 new transfers enacted by the 2005 legislature totaling \$13.2 million over the 2007 biennium.

Figure 25

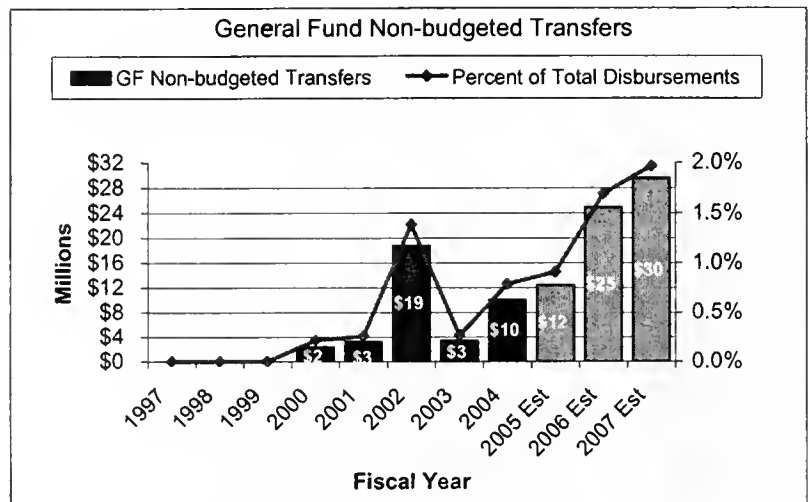




Figure 26

General Fund Non-budgeted Transfer Estimates  
Fiscal Years 2005-2007  
(in millions)

Authorization	Name	Fiscal 2005	2007 Biennium		
			Fiscal 2006	Fiscal 2007	Total
<u>Vehicle/Other Fee Transfers</u>					
15-1-122(1)	Adoption services	\$0.044	\$0.049	\$0.054	\$0.103
15-1-122(2)(c,d)	To DOT	0.000	3.050	3.096	6.146
15-1-122(3)(a)(i)	Junk vehicle titling fee	0.740	0.776	0.646	1.422
15-1-122(3)(a)(ii)	Junk vehicle registration fee	1.044	1.085	1.110	2.195
15-1-122(3)(b)(i)	Weed fee OHV FILT	0.000	0.033	0.031	0.064
15-1-122(3)(b)(ii)(A)	Weed Vehicle <1 ton, logging, motor home	1.535	1.596	1.635	3.232
15-1-122(3)(b)(ii)(B)	Weed motorcycles & quadracycles	0.000	0.070	0.050	0.119
15-1-122(3)(b)(ii)(C)	Weed Vehicle permanent	0.062	0.064	0.066	0.130
15-1-122(3)(c)(i)	Watercraft decal fee	0.000	0.141	0.132	0.272
15-1-122(3)(c)(ii&iii)	Snowmobile decal fees	0.000	0.140	0.122	0.262
15-1-122(3)(c)(iv)	OHV decal fees	0.000	0.164	0.154	0.318
15-1-122(3)(c)(v)	Parks recreational fee	0.000	0.237	0.267	0.504
15-1-122(3)(c)(vi)	Watercraft FILT 20%	0.272	0.571	0.184	0.755
15-1-122(3)(c)(vii)	Vehicle registration fee for parks	0.000	2.744	2.810	5.554
15-1-122(3)(d)	Veterans license plates	0.176	0.183	0.188	0.371
15-1-122(3)(e)(i)	Highway patrol retirement	0.000	0.000	0.000	0.000
15-1-122(3)(f)	DOT senior transportation	0.340	0.674	0.358	1.032
15-1-122(3)(g)	Search & rescue surcharge	0.000	0.000	0.000	0.000
15-1-122(3)(h)	Vehicle registration fee for veterans	0.646	0.676	0.577	1.253
Sub-total		\$4.860	\$12.252	\$11.480	\$23.732
<u>Other Transfers</u>					
15-35-108	Research & commercialization	3.650	0.000	0.000	0.000
17-3-240	To the mineral impact account	8.959	8.665	8.834	17.499
39-11-203(5)	Loan costs for job credits *	0.000	0.000	0.000	0.000
39-71-2352(6)	Old state fund shortfall	Unknown	Unknown	Unknown	Unknown
53-20-171(2)	Development disability tax credit	Unknown	Unknown	Unknown	Unknown
Subtotal		\$12.609	\$8.665	\$8.834	\$17.499
<u>New - 2005 Legislature</u>					
Un-codified	HB 5-to the capital projects fund	\$0.000	\$10.700	\$19.400	\$30.100
Un-codified	HB 6-to renewable resource grant account	0.000	0.000	0.600	0.600
Un-codified	HB 9-to the cultural trust	0.000	3.413	0.000	3.413
Un-codified	HB 740-to asbestos disease account	0.000	0.175	0.000	0.175
Un-codified	HB 761-reimburse military ins. premiums	0.060	0.300	0.300	0.600
Un-codified	SB 87-to centrally assessed prop. tax acct.	2.632	0.000	0.000	0.000
15-1-122(3)(c)(vii)	SB 285-eliminate \$4 reg. fee transfer for parks	0.000	(2.744)	(2.810)	(5.554)
15-1-122	HB 170-Correct vehicle fee transfers	1.211	0.231	0.053	0.284
17-3-240	HJ 2-Increased US royalty estimate	0.000	0.239	0.487	0.726
17-3-240	SB 212-Eliminate the US royalty transfer	(8.959)	(8.904)	(9.321)	(18.225)
39-11-203(5)	HB 270-Eliminate loan costs for job credits	0.000	0.000	0.000	0.000
41-5-130(6)	HB 414-to youth prevention account	0.000	0.600	0.485	1.085
53-20-171(2)	HB 513-extended devel. disability tax credit	0.000	0.000	0.000	0.000
Subtotal		(\$5.056)	\$4.009	\$9.195	\$13.204
Total		\$12.413	\$24.926	\$29.508	\$54.434

## PROPRIETARY FUNDS AND RATE SETTING

There are two types of proprietary funds: 1) internal service funds; and 2) enterprise funds. Internal service funds are used to account for "internal service" functions that provide goods or services to other agencies or programs of state government on a cost-reimbursement basis. Enterprise funds are used to account for "enterprise" functions that provide goods or services to the public on a user-charge basis. Examples of internal service funds are those collected by the Information Services Division of the Department of Administration for providing computer services to other agencies and those collected by the Central Stores program for providing various supplies to state agencies. An example of an enterprise fund is the state lottery. Since the 1997 biennium, the legislature has not appropriated proprietary funds to the program receiving the funds (except in cases where the proprietary funds are used as a part of a program that is not an enterprise or internal service function and otherwise requires an appropriation.)

In the past, the legislature appropriated internal service funds to the agency receiving the funds and simultaneously provided funding to the agencies that would pay the internal service functions for services received, which resulted in a double counting of the cost of providing internal service functions. To avoid this double-counting, the legislature no longer appropriates proprietary funds to the internal service functions receiving the funds, but instead sets the maximum rates that the internal service functions may charge. Statute requires that rates be commensurate with costs and prohibits an internal service function from raising rates above the legislatively established rates during the biennium. The legislature reviews enterprise functions and enterprise funds, but statute does not require that the legislature establish rates for enterprise functions. (SB 55 passed by the 1999 legislature requires that enterprise funds that transfer profits to the general fund or to an account subject to an appropriation must be appropriated by the legislature. The two enterprise accounts that currently fall under the requirement are the state lottery and liquor accounts.)

### CHANGES BY THE 2005 LEGISLATURE

The 2005 Legislature made one major change in internal services funds through a reorganization. Responsibility for the maintenance of the capitol complex grounds has been transferred from the Department of Fish, Wildlife, and Parks to the Department of Administration, General Services Division. No change was made in either the methodology for assessing agencies for this cost or in the level of assessment made. The function is now part of the facilities management function.

### SUMMARY OF PROGRAMS/FUNCTIONS

Figure 27 shows each function for which the legislature sets rates in HB 2, by agency.

Figure 27

Internal Services Functions  
2007 Biennium

Agency/Program or Function

**Transportation**

Motor Pool  
Equipment

**Revenue**

Customer Service Center

**Administration**

Administration and Financial Services Division

Legal Services  
Management Services  
Network Support  
Warrant Writer  
Human Resources

General Services Division

Facilities Management (inc. Capitol Grounds)  
Mail Services  
Print Services  
Central Stores  
Statewide Fueling Network  
State Procurement Card

Information Technology Services Division

State Personnel Division

Professional Development  
Payroll Processing

**Fish, Wildlife, and Parks**

Administration and Finance  
Vehicle Account  
Aircraft Per Hour  
Duplicating  
Bindery

**Environmental Quality**

Central Management

**Natural Resources and Conservation**

Air Operations

**Commerce**

Board of Investments  
Director's Office/Management Services

**Justice**

Agency Legal Services

**Corrections**

Cook/Chill  
Laundry

**Labor and Industry**

Centralized Services  
Business Standards

**Office of Public Instruction**

Indirect Cost Pool

**Montana University System**

Employee Benefits

## FUND SWITCHES

Figure 28 shows the funding switches that were made from present law. As shown, general fund spending authority is increased by \$67.6 million while other funds are reduced by \$65.7 million. There are four major causes of the large amount of funding switches: 1) change in the Medicaid matching rate; 2) reallocation of revenues to the general fund; 3) legal concerns; and 4) loss of federal funds. Miscellaneous causes account for the remaining switches.

Figure 28

### Fund Switches 2007 Biennium

Agency/Program	--- 2007 Biennium ---		Explanation
	General Fund	Other Funds	
Judiciary - Information Technology	\$3,870,000	(\$3,210,672)	HB 536 funds IT program with general fund and deposits prior funding of \$10.00 surcharge from court case filings into the general fund.
Governor - Board of Visitors	190,000	(187,975)	Replaced eliminated federal Medicaid funds for the Mental Health Ombudsman with general fund
Governor - Executive Office	4,000,000	(4,000,000)	HB 270 & 271 transferred Workforce Training Grant Program to Dept. of Commerce and replaced INTERCAP loan SSR with GF
Commerce - Business Resources	2,800,000	(2,800,000)	HB 270 revised the funding mechanism from INTERCAP to general fund; HB 271 was a supplemental for \$2.1 million of general fund in FY 2005
Transportation - Maintenance	0	0	511 Travelers Information Program switch of \$80,000 per year from federal to state special revenue
Revenue - All Programs	1,398,106	(1,865,040)	Replaced federal Unemployment Insurance funds with general fund due to SB 271 (2003 Legislature) move UI to DOLI
Administration - General Services	(9,509)	9,509	Moved 0.10 FTE to State Procurement Card Program (non-budgeted proprietary funds)
Administration - Information Technology	600,000	(416,914)	Switched funding in the Public Safety Communications Program from FSR to general fund for 2.00 FTE existing and add 2.00 FTE
Montana Censensus Council	137,869	(137,869)	Funded executive director position with general fund instead of SSR
Justice - Drug Task Force	1,509,808	(1,396,067)	Funded the Montana Drug Task Force with general fund due to loss of federal grant (Byrne Grant) and state special revenue from county match.
Justice - Forensics Lab	245,866	(74,357)	Replaced federal funds no longer available for lab positions with general fund
Labor and Industry - Workforce Division	300,676	908,158	Switched funding from Reed act funds to general fund and ESA for Jobs for Montana Graduates and Displaced Homemakers
Labor and Industry - Commissioner	112,296	(112,296)	Switched funding from ESA to general fund for the Hearings Bureau
Labor and Industry - Employment	385,596	(385,596)	Switched funding from ESA to general fund for the Humans Rights Bureau
Labor and Industry - Community Service	1,486	(1,486)	Switched funding from ESA to general fund
DPHHS - Medicaid Match Rate	47,901,676	(47,901,676)	Increase in state Medicaid match rate
DPHHS - Child care/TANF	2,400,000	(2,400,000)	Provide general fund to support child care so that federal TANF funds supporting child care may be used to support cash assistance benefits
DPHHS - Child Support Enforcement	1,263,678	(1,263,678)	Funded from the diversion of tobacco settlement proceeds in 2005 biennium, returned to general fund support for 2007 biennium
DPHHS - Foster Care	1,000,000	(1,000,000)	Increase general fund support for foster care due to a decline in the number of children eligible for federal funds (Title IV-E) and compliance issues
DPHHS - Voluntary Genetics Program	(1,091,919)	1,091,919	Offset general fund for voluntary statewide genetics program with insurance fee increase (SB 275)
DPHHS - Extended Employment	541,278	(541,278)	Funded from the diversion of tobacco settlement proceeds in 2005 biennium, returned to general fund support for the 2007 biennium
Total	<u>\$67,556,907</u>	<u>(\$65,685,318)</u>	

## CHANGE IN MEDICAID MATCHING RATE

All but \$20 million of the general fund switch is due to a reduction in the federal rate of participation in the Medicaid program. This reduction is due to a change in Montana's relative economic standing nationally. While the rate of participation is updated regularly, and has generally resulted in a more favorable federal rate in recent years, the improvement in Montana's relative economy coupled with the reversal of the one-time Medicaid match enhancement in the base year (see page 141 of this volume) has resulted in a significant change.

## REALLOCATION OF REVENUES TO THE GENERAL FUND

Two switches are due to a reallocation of revenues from state special revenue accounts to the general fund. In both instances, the level of general fund is larger than the level of prior state special revenue: 1) Judiciary information technology; and 2) Department of Public Health and Human Services (DPHHS) voluntary genetics program. This factor accounts for almost \$5 million of switched funds but on net only \$2.8 million general fund growth.

## LEGAL CONCERNS

The INTERCAP loan program was used to fund the worker's training program in the Governor's Office in the 2005 biennium (transferred to the Department of Commerce in the 2007 biennium). When legal concerns were raised as to the appropriateness of this source, the funding was switched to general fund. This factor addresses \$6.8 million of general fund growth.

## LOSS OF FEDERAL FUNDS

In several instances, the legislature replaced federal funding that was either: 1) reduced at the source; 2) deemed to be an inappropriate use of the funds; or 3) a known one-time source of funding. The total switch due to these factors is about \$5 million.

## OTHER SWITCHES

There are a number of appropriations made by the 2005 Legislature that are not listed in Figure 28 that represent a change in funding for the same function from the 2005 biennium to the 2007 biennium. These funding changes are not listed in the table because the functions were supported by one-time-only appropriations, which were removed from the FY 2004 base budget. However, the one-time-only appropriations supported state government programs and functions that have been part of the present law services for many years and that, for the most part, are funded with ongoing appropriations in the 2007 biennium.

The biennial appropriation for each function is:

- MIAMI (Montana Initiative for the Abatement of Mortality in Infants) - \$1,100,000 million general fund
- Meals on Wheels - \$514,000 general fund
- State matching funds for Medicaid personal assistance benefits - \$451,193, general fund
- AIDS treatment and prevention - \$84,000 general fund
- Poison control hotline - \$77,908 general fund

If these functions had been included in Figure 28 it would have increased the general fund total by \$2.2 million and reduced other funds by a like amount.

## FEE CHANGES

The 2005 Legislature enacted changes to fees (increases or decreases) and created new fees that will raise an estimated net \$61.5 million in the 2007 biennium. Of that amount, \$37.4 million is reflected in appropriations in the general appropriations act (HB 2). The increased fee revenue, which will mostly be deposited in accounts other than the general fund, will be used to fund new and existing agency programs. Figure 29 lists 40 bills that contain fee increases. In addition, there are three instances of fee changes being a result of the level of spending authority authorized in the HB 2. Legislation is included on this list if there is: 1) a fee increase, 2) a fee decrease, 3) new fees imposed, or 4) a new group of fee payers. Not included on the list are university system tuition hikes that are certain to occur (based upon recent Board of Regents decisions) during the 2007 biennium. While this list may not be complete because of the difficulty of sometimes defining what is a "fee", it is a representative list of fee bills.

Figure 29				
Increased or Decreased Revenues from New or Changed Fees				
2007 Biennium				
Bill #	Description	Estimated Revenue Biennial Impact	New or Revised (N or R)	Amount in HB 2
<u>New Fee or Revised Fee as Result of Statutory Change</u>				
HB 22	Water adjudication fees	\$6,200,000	N	\$4,816,580
HB 34	Revises turkey tag laws	108,420	R	
HB 35	Highway patrol officer salaries/retention - vehicle registration fee increase	9,940,725	R	
HB 55	Permanent registration of trailer and semitrailer fleet	-	R	10,000
HB 60	Cleanup of indoor meth labs - fee for training/certification	15,000	N	15,000
HB 71	Revise license fees on certain mortgage brokers	(30,000)	R	
HB 77	Increase septic pumper fees	54,250	R	
HB 140	Revise laws on consumer credit counseling	5,000	N	
HB 160	Revise building code administration	100,750	R	
HB 172	Revise certain hunting and fishing licenses	4,146,734	R	
HB 174	Establish private pond fees	25,830	N	
HB 203	Clarify responsibility of boards and DLI - increases sanitarian fee	9,500	R	
HB 214	Creation of non-resident youth big game license	187,500	N	
HB 235	Creation of lottery draw program and fees for specific hunting tags	746,232	N	746,232
HB 272	Half-priced hunting licenses to disabled veterans	5,830	N	
HB 274	Agricultural feed laws to increase licensing and registration fees	196,250	R	
HB 370	Revise strip and underground mining fees	(500)	R	(600)
HB 421	Hunting/fishing licenses for non resident child of resident	(26,946)	N	
HB 470	Applicants to pay for certain environmental impact statements	250,000	N	250,000
HB 476	Increase marriage license fee to fund domestic violence intervention program	186,966	R	186,966
HB 536	Generally revise court automation surcharge	3,210,672	R	3,210,672
HB 541	Revise registration of certain motor homes	71,234	R	4,180
HB 584	Promote growth of film and other media in Montana	35,170	N	
HB 628	Registration for certain alternative schools and programs	44,000	N	42,650
HB 671	Generally revising motor vehicle laws	3,608,650	R	787,500
HB 749	Revise nursing home bed tax	9,561,395	R	
HB 802	Eliminate annual permit surcharge fee for video gambling machines	(530,344)	R	
SB 82	Revise definition of and utilization fee on ICF/DD	476,236	R	
SB 98	Montana land information act	2,100,000	R	2,100,000
SB 120	Extend hospital tax on inpatient bed days	25,570,394	R	24,675,892
SB 137	License tattoo and body piercing businesses	34,750	N	34,750
SB 208	Increase conviction charge to fund victim services	34,178	R	
SB 275	Revising voluntary genetics program: increasing program fee	499,676	R	
SB 282	Student fee to attend course on racial profiling	11,520	N	22,520
SB 320	Revise concentrated animal feeding operation permit fees	(81,000)	R	
SB 339	Low cost hunting permits for active military personnel	(27,709)	N	
SB 406	Fund civil legal assistance for indigent victims of domestic violence	54,900	R	54,900
SB 412	Regulation of elevator contractors, mechanics, and inspectors	99,840	N	85,390
SB 442	Repeal POINTS replacement fee	(5,768,172)	R	
SB 486	Revise viatical settlement law	20,000	N	
	Sub-total	\$61,146,931		\$37,042,632
<u>Fee Change as Result of Appropriation in HB 2</u>				
	Increase fire protection taxes to \$0.20/acre	\$74,578	R	\$74,578
	Annual adjustment to air quality fees	\$139,527	R	\$139,527
	Military Affairs Shared usage fees for Distance Learning Program	125,000		125,000
	Sub-total	\$339,105		\$339,105
	Total	\$61,486,036		\$37,381,737

## LEGISLATIVE INTERIM STUDIES – SUMMARY

The Fifty-ninth Legislature adopted 2 bills and 22 joint resolutions for interim studies. Those interim studies are listed in Figure 30 along with the status of where each was referred by the Legislative Council at its May 2005 meeting. Of the 22 resolutions, 20 were referred to various legislative interim committees. The remaining studies were not assigned, based upon a survey of legislators to determine priority.

Figure 30

Legislation Requesting or Requiring Studies  
2007 Biennium

Bill No. Study Description	Legislative Council Assignment
HB 790 Study of split estates and coal bed methane reclamation and bonding	Environmental Quality Council (EQC)
SB 525 School funding formula study	School Funding Formula Study and Quality Schools Committee
HJR 10 Study fire-related statutes for suppression and mitigation	Environmental Quality Council (EQC)
HJR 15 Study sentencing equity	Law and Justice (LJIC)
HJR 26 Study state financial reliance on fed funds; implications of fed budget deficits	Legislative Finance Committee (LFC)
HJR 30 Study FWP licenses, permits, and landowner incentives	Not assigned
HJR 33 Study contract timber harvesting	Environmental Quality Council (EQC)
HJR 34 Study on impacts of superfund sites on surrounding communities	Environmental Quality Council (EQC)
HJR 36 Study resource indemnity trust funding and allocation	Legislative Finance Committee (LFC)
HJR 41 Study economic development in Indian country	State-Tribal Relations (STR)
HJR 42 Study investment of pension funds	State Admin. and Vets' Affairs (SAVA)
HJR 43 Study the classification and valuation of agricultural land	Revenue and Transportation (RTIC)
HJR 44 Study taxation of oil & gas production, equipment, and transmission pipelines	Revenue and Transportation (RTIC)
HJR 45 Study funding for wireless enhanced 911	Not assigned
SJR 06 Study legal services for low and moderate income Montanans	Law and Justice (LJIC)
SJR 11 Study subdivision review process	Education and Local Government (ELG)
SJR 14 Comprehensive review of state active duty process	State Admin. and Vets' Affairs (SAVA)
SJR 35 Study professional and occupational licensing boards	Economic Affairs (EAC)
SJR 36 Study distributed energy generation	Energy and Telecommunications (EAT)
SJR 37 Study child protection system	Children & Families (CFHHS)
SJR 38 Study issues related to identity theft	Economic Affairs (EAC)
SJR 39 Study possible creation of ongoing energy planning and coordinating entity	Energy and Telecommunications (EAT)
SJR 40 Study delivery of prosecution services	Law and Justice (LJIC)
SJR 41 Study mental health crisis response system	Children & Families (CFHHS)

While many of the assigned studies likely include significant fiscal issues or may have an impact upon the state budget in some way, none seem to imply any direct fiscal impacts that can be addressed at this time. As the studies run their course, legislators and legislative staff members need to be cognizant of the potential for fiscal impacts that may have budget implications for the current and future biennia.

## OTHER MAJOR FUNDS

### HIGHWAYS SPECIAL REVENUE ACCOUNT

Projections for the highways state special revenue account (HSRA) indicate that expenditures from the account will exceed account revenues and the working capital balance would be depleted by the end of FY 2007. This situation of excess expenditures is expected to continue through the foreseeable future. Expenditures at the level appropriated by the legislature are expected to exceed revenues by nearly \$53.7 million during the 2007 biennium and the account is forecast to end the 2007 biennium with a depleted account balance. At the current level of services, expenditures could exceed revenues by nearly \$44.0 million during the 2009 biennium.

Three revenue sources – gasoline taxes, diesel taxes, and gross vehicle weight fees – provide roughly 98 percent of the revenues into the account. These three revenue sources rely on increased usage to provide revenue growth. Inflationary factors tend to have an inverse effect on increased usage. However, increased usage directly increases expenditures, because as highways see more use, maintenance and construction costs tend to increase with the higher level of wear. Cost increases from increased use compound the cost increases from inflation to widen the imbalance between expenditures and revenues.

Given the declining financial condition of the account, the 2007 legislature may be faced with the need to either increase highway user fees or fuel taxes or to reduce the level of services provided for the state's transportation infrastructure. See the table and discussion of the HSRA in Volume 3, page A-81 of this report for additional information.

## RESOURCE INDEMNITY TRUST

The Montana Constitution (Article IX, Section 2) requires the existence of the Resource Indemnity Trust (RIT) and states “ The principal of the resource indemnity trust shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000), guaranteed by the state against loss or diversion.” In February of 2002, the Governor certified that the balance of the RIT had exceeded the \$100 million threshold. Consequently the trust no longer receives revenue. However, interest earnings are used as a funding source for several RIT related funds.

The legislature appropriated funds from the corpus of the trust, interest from the trust, and indemnity related taxes to provide \$27.6 million worth of support to two universities, four agencies, and numerous local governmental agencies through the grant and loan programs. Five pieces of legislation were passed that affected the utilization of trust dollars through transfers and new appropriations. The legislature also chose to address the issues regarding the potential inappropriate utilization and lack of oversight of the funds.

In addition to appropriations made in HB 2, HB 6 and HB 7, the legislature affected the resource indemnity trust with the following legislation:

- HB 2 appropriations include \$230,000 of excess corpus dollars in excess of the constitutionally required \$100 million to the University System and the Judiciary.
- HB 6 authorized \$600,000 of general fund to be transferred into the renewable resources account to provide additional grants and loans
- HB 379 authorized the transfer of \$1.2 million per year to the Zortman-Landusky (Z/L) Water Treatment Trust until such time that the trust reaches 19.3 million.
- SB 143 authorized \$600,000 of orphan share loan funds to be transferred to the hazardous waste fund and the environmental quality protection fund
- HB 7 transferred \$457,116 from the reclamation and development fund to the renewable resource fund and the environmental contingency account to provide increased funding for grants and loans and environmental emergencies
- SB 489 provides \$1.25 million to the remediation division of the Department of Environmental Quality to establish a remediation plan for a multiple party site in northwestern Montana

To address the management and utilization issues of the trust, the legislature completed the following:

- Language allowing the use of funds for activities outside of statute was added to HB 6 (Renewable Resource Loans and Grants) and HB 7 (Reclamation and Development Loans and Grants) for the 2007 biennium only
- Upon the recommendation of the joint appropriations committee for natural resources and commerce, the legislature passed a resolution (HJ 36) to study the structure, historical usage, and statutes related to the resource indemnity funds

The legislature maintained that RIT funds should be structurally balanced. This was achieved in all funds but the renewable resource fund, where the legislature appropriated approximately \$40,000 more than estimated revenues. This fund ended with a negative balance of \$51,664 after the pay plan was allocated. Two additional funds ended in the negative position due to pay plan allocations. The hazardous waste fund and the environmental quality protection funded have a projected ending balance of negative \$41,968 and negative \$55,155 respectively. All projected balances could change



based on the amount of the appropriation spent and the actual revenues. A summary of appropriation activity is displayed in Figure 31.

Figure 31								
Resource Indemnity Trust - Related Funds								
Projected 2007 Biennium Activity								
	Fund Title	Renewable	Reclamation & Haz. Waste	Environmental	Groundwater	Water	Orphan	
	Fund Number	Resource (02272)	Development (02458)	CERCLA (02070)	Quality Protect. (02162)	Assessment (2289)	Storage (02216)	Share (02472)
Beginning Fiscal 2005 Fund Balance (SABHRS)		\$1,396,368	\$1,944,494	\$194,540	\$839,661	\$252,454	\$320,696	\$5,093,800
Continuing appropriations		(3,882,647)	(2,474,570)	(31,231)			(589,979)	0
Fiscal 2005 appropriations		(934,212)	(2,961,720)	(895,656)	(915,792)	(666,000)	0	(1,350,144)
Fiscal 2005 Adjustments		0	0	0	0	(252,454)	0	0
Fiscal 2005 revenues (RTIC, agency estimates)		3,802,517	5,339,484	619,760	725,560	666,000	138,000	2,254,000
Projected Available Fund Balance Beginning FY2006		\$382,026	\$1,847,688	(\$112,587)	\$649,429	\$0	(\$131,283)	\$5,997,656
Revenues (RATC, agency estimates)								
RIT Interest-direct		4,480,000	3,000,000			600,000	500,000	
RIT Interest-further allocation		1,034,400	1,206,800	896,480	310,320			
RIGWA Proceeds			4,777,376			732,000		4,777,360
Metal Mines Tax (7%)			1,311,000					
Coal Tax & Interest (from 04011)		516,009						
STIP/Other Interest		20,000		4,000	6,000		37,500	70,000
Cost Recoveries					1,023,800			
Transfers - SB 143 - Loans from Orphan Share				390,405	209,595			(600,000)
Transfers - HB 6 from General Fund		600,000						
Transfers - HB 379 Z-L Water Treatment Trust								(2,400,000)
Administrative Fees		14,000						
State-owned Project Revenue							240,000	
Total Projected Available Revenues		\$7,046,435	\$12,142,864	\$1,178,298	\$2,199,144	\$1,332,000	\$646,217	\$7,845,016
Executive Appropriations								
House Bills 6 and 7 Grants		\$ 4,600,000	\$ 4,856,187					
House Bill 6-Emergency/Private Grants		400,000						
House Bill 7-Transfers ( \$57,116 to ECA)		(400,000)	457,116					
MSU-Northern (statutorily appropriated)		480,000						
UM-Bureau of Mines						1,332,000		
DNRC-Centralized Services		10,000	12,000					
DNRC-Conservation and Resource Devel. Division		359,777	2,145,455					
DNRC-Water Resources Division			254,832				544,600	
DNRC-Flathead Basin Commission		16,002						
DEQ-Central Management			88,378	28,964				
DEQ-Planning, Prevention & Assistance				266,244				
DEQ-Enforcement			9,648					
DEQ-Remediation - SB 489								1,250,000
DEQ-Remediation				47,916	2,199,144			2,100,019
DEQ-Permitting & Compliance			3,243,521	833,174				
Judiciary-Water Court		1,533,510						
Library Commission-State Library Operations/NRIS			782,872					
HB 447 Pay Plan		98,810	130,978	43,968	55,155			1,571
Total Appropriations		\$7,098,099	\$11,980,987	\$1,220,266	\$2,254,299	\$1,332,000	\$544,600	\$3,351,590
Projected 2007 Biennium Ending Balance		(\$51,664)	\$161,877	(\$41,968)	(\$55,155)	\$0	\$101,617	\$4,493,426

## COAL TAX SHARED ACCOUNT

The coal tax shared account receives a portion of coal severance revenues for further distribution to specific programs. Entities in the coal tax shared account include the Coal Board in the Department of Commerce, Conservation Districts in the Department of Natural Resources and Conservation, Growth Thru Agriculture in the Department of Agriculture, and the Montana State Library Commission. Two pieces of legislation were passed that affected the allocation of tax dollars to the fund. They are:

House Bill 482 - HB 482 increases the amount of coal severance tax revenues flowing into the coal tax shared account from 7.75 percent to 8.36 percent. The legislature appropriated increases in state special revenue by \$389,606 to implement the provisions in HB 482.

House Bill 758 - HB 758 creates a new oil, gas, and coal natural resource state special revenue account, which dedicates revenue to the Department of Commerce and the Department of Revenue. Revenues for the new account come from the coal severance tax and the oil and gas production tax.

Passage of HB 482 allocates 8.36% of the coal severance tax revenues to the coal tax shared account, a state special revenue account. However, HB 758 will reduce this amount to 5.46 percent, and the difference, 2.90 percent, will go to the new account and be administered by the Coal Board in the Department of Commerce. The Coal Board will no longer be a participant in the coal tax shared account. The Department of Commerce will receive \$1.5 million over the biennium for the purpose of administering the activities of the Coal Board.

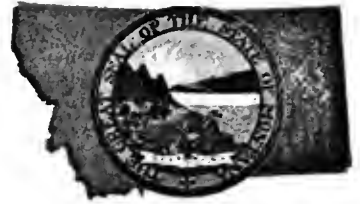
The legislature allocated the coal tax shared account in the following manner:

Figure 32 Coal Tax Shared Revenue Account 2007 Biennium			
	FY 2006	FY 2007	Biennium
Estimated Revenues	\$1,725,510	\$ 1,761,877	\$ 3,487,387
<u>Appropriations</u>			
Montana State Library - Statewide Library Resources	436,512	437,204	873,716
DNRC - Conservation Districts/Centralized Services	803,554	804,553	1,608,107
Agriculture - Growth Through Ag	<u>508,872</u>	<u>513,520</u>	<u>1,022,392</u>
Total Appropriations	<u>\$1,748,938</u>	<u>\$1,755,277</u>	<u>\$3,504,215</u>
Balance	<u>-\$23,428</u>	<u>\$6,600</u>	<u>-\$16,828</u>

# 2009 BIENNIUM OUTLOOK







# STRUCTURAL BALANCE AND THE 2009 BIENNIUM OUTLOOK

## GENERAL FUND

### STRUCTURAL BALANCE

Structural balance is defined as the matching of *ongoing* revenues with *ongoing* expenditures. If revenues equal or exceed expenditures, structural balance is achieved. Conversely, if expenditures exceed revenues, structural imbalance occurs. General fund expenditures have exceeded revenues for five of the last nine biennia in the late 1980s, 1990s, and early 2000s (see Figure 1). The structural imbalance for the 2007 biennium is expected to be a negative \$5.1 million, although structural balance is achieved by the end of FY 2007 (\$2.3 million positive). The imbalance in the 2007 biennium includes an allowance for \$81.3 million of one-time disbursements.

Revenue and Disbursement History  
General Fund & School Equalization Accounts  
In Millions

Fiscal Year	General Fund Revenue	General Fund Disburse.	Surplus / Deficit	School Equalization Revenue	School Equalization Disburse.	Surplus / Deficit	GF/SEA Revenue	GF/SEA Disburse.	Surplus / Deficit	Biennium Surplus/Deficit
A 84	\$330.305	\$357.387	(\$27.082)	\$242.384	\$261.753	(\$19.369)	\$572.689	\$619.140	(\$46.451)	
A 85	364.522	380.359	(15.837)	281.275	271.016	10.259	645.797	651.375	(5.578)	(\$52.029)
A 86	349.541	366.815	(17.274)	252.899	282.166	(29.267)	602.440	648.981	(46.541)	
A 87	346.690	391.325	(44.635)	263.052	283.428	(20.376)	609.742	674.753	(65.011)	(111.552)
A 88	391.152	370.853	20.299	276.216 *	281.886	(5.670)	667.368	652.739	14.629	
A 89	411.729	388.270	23.459	275.589 *	279.536	(3.947)	687.318	667.806	19.512	34.141
A 90	447.962	432.323	15.639	282.389	287.393	(5.004)	730.351	719.716	10.635	
A 91	420.257	457.612	(37.355)	385.031	391.500	(6.469)	805.288	849.112	(43.824)	(33.189)
A 92	487.036	523.072	(36.036)	393.591 *	398.059	(4.468)	880.627	921.131	(40.504)	
A 93	539.955	523.553	16.402	412.903	405.067	7.836	952.858	928.620	24.238	(16.265)
A 94	480.021	497.921	(17.900)	411.834	406.388	5.446	891.855	904.309	(12.454)	
A 95	646.149	535.461	110.688	289.199 *	409.822	(120.623)	935.348	945.283	(9.935)	(22.389)
A 96	963.193	984.997	(21.804)				963.193	984.997	(21.804)	
A 97	986.570	997.835	(11.265)				986.570	997.835	(11.265)	(33.069)
A 98	1,034.382	1,020.591	13.791				1,034.382	1,020.591	13.791	
A 99	1,068.111	1,043.418	24.693				1,068.111	1,043.418	24.693	38.484
A 00	1,163.641	1,105.598	58.043				1,163.641	1,105.598	58.043	
A 01	1,269.472	1,268.938	0.534				1,269.472	1,268.938	0.534	58.577
A 02	1,265.713	1,355.903	(90.190)				1,265.713	1,355.903	(90.190)	
A 03	1,246.381	1,275.827	(29.446)				1,246.381	1,275.827	(29.446)	(119.636)
A 04	1,381.565	1,282.038	99.527				1,381.565	1,282.038	99.527	
F 05	1,397.596	1,370.321	27.275				1,397.596	1,370.321	27.275	7.166
F 06	1,420.895	1,428.321	(7.426)	Legislative Budget **			1,420.895	1,428.321	(7.426)	
F 07	1,465.787	1,463.478	2.309	Legislative Budget **			1,465.787	1,463.478	2.309	(5.117)

\* Excludes Education Trust & General Fund Transfers.

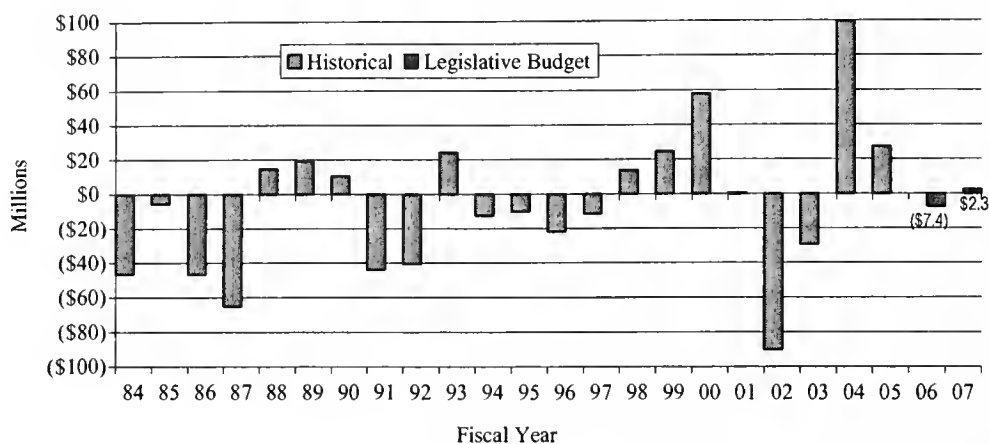
\*\* Excludes One-Time Appropriations/Transfers

Note: The 1995 Legislature de-earmarked school equalization revenue to the general fund.

Figure 1

Figure 2

## General Fund Structural Balance



In the early 1990s, the legislature began to make progress toward addressing the problem of continuing structural imbalance in the general fund. In setting revenue and expenditure targets, the 1993 House adopted language prohibiting use of "one-time revenue...for any purpose other than creating an ending fund balance" and "temporary solutions to the state's chronic fiscal woes." This effort continued into future sessions, and final legislative actions taken during the 1993 and subsequent sessions have reflected these objectives. However, supplemental appropriations have sometimes contributed to a structural imbalance because the legislature does not budget for contingencies or other unforeseen events or emergencies.

On the expenditure side, legislators have faced the difficulty of restraining budget growth when confronted with double-digit growth in corrections costs, increased human services demands, and rising funding requirements for education. In the 1993 and subsequent sessions, the legislature enacted measures to contain costs in programs growing faster than revenues, such as Medicaid and foster care. These measures were designed to slow expenditure growth and to help the legislature reach structural balance in the general fund in future biennia.

The effort to minimize use of one-time revenues for ongoing programs and enact measures to permanently control expenditure growth began to show success in recent biennia. However, the 2001 legislature adopted a \$56.9 million structurally unbalanced budget for the 2003 biennium. Two years later, expected revenues deteriorated significantly and the imbalance grew to nearly \$120.0 million for the 2003 biennium. This amount is in spite of over \$81.8 million in budget reductions implemented by the executive under 17-7-140, MCA, and legislative actions taken during the August 2002 Special Session. The only reason the ending fund balance for the 2003 biennium remains positive is because the biennium began with a \$172.9 million carry-forward balance.

The difficult task of achieving structural balance is further exacerbated by delayed implementation of expenditure increases and revenue reductions in future budget cycles (2007 biennium and beyond). In many cases, expenditure increases do not occur at the beginning of the biennium, but are phased-in

over the biennium. This results in less cost for the current biennium, but increased costs to fund the same level of program services in the following biennium. As an example, the state employee pay plan increases are phased-in over the 2007 biennium, and the cost to fully fund the pay plan in the 2009 biennium will result in a general fund increase of \$25 million.

Phased-in revenue reductions have the same effect as phased-in expenditure increases. For example, SB 407 authorized an increase in cigarette, tobacco, rental car, and lodging facility taxes coupled with a corresponding reduction in individual income taxes. Because of the phased-in provisions for the individual income tax reduction, the bill increased general fund revenues million in the 2005 biennium, but decrease general fund revenues in the 2007 biennium.

As shown in Figures 1 and 2, general fund expenditures exceed revenues for FY 2006 after adjusting for one-time disbursements. However, since structural balance is achieved in FY 2007, the revenue and expenditure bases are approximately equal at the end of the biennium.

## **OUTLOOK FOR THE 2007 BIENNIUM**

The projected structural balance for FY 2007 is positive at \$2.3 million. Although the state could be considered structurally balanced at that time, there are fiscal “potholes” that could be troublesome as the state moves toward the next biennium. For example, the financial resolution to the public school lawsuit, the increased costs of the phased-in employee pay proposal, rising corrections populations, and continued double digit medical inflation coupled with the potential reduction in federal Medicaid funding could easily consume average revenue growth for the 2009 biennium. Structural balance depends on the ability of ongoing revenue to meet anticipated present law disbursement costs. If average revenue growth is in the range of 3.0 to 3.5 percent per year, then the costs of present law services cannot exceed this amount without tax policy modifications and/or an adjustment to services provided.

## HIGHWAYS STATE SPECIAL REVENUE ACCOUNT PROJECTIONS

The following figure summarizes the projections of working capital for the highways state special revenue account. This account funds the Department of Transportation highway planning, construction, and maintenance activities, highway safety enforcement activities in the Department of Justice, road maintenance functions in state parks, and capital projects related to highways infrastructure. The highways state special revenue account is chronically structurally imbalanced, and the level of revenue growth cannot sustain the level of expenditure growth needed to support the services provided. The projections show the account is anticipated to be expended at a higher level than expected revenues for the 2007 biennium (expenditures will exceed revenues by \$53.7 million), and the account is projected to go negative in FY 2007. A detailed working capital analysis for the highways state special revenue account is provided in the Department of Transportation agency discussion in Volume 3, page A-81.

Figure 3								
Highways State Special Revenue Account								
Projected Working Capital Analysis								
Fiscal Years 2004 - 2011								
(in \$ Millions)								
	Fiscal 2004 Actual	Fiscal 2005 Approp.	Fiscal 2006 Approp.	Fiscal 2007 Approp.	Fiscal 2008 Estimate	Fiscal 2009 Estimate	Fiscal 2010 Estimate	Fiscal 2011 Estimate
Beginning Working Capital Balance	\$63.4	\$39.1	\$42.6	\$17.2	(\$11.1)	(\$31.9)	(\$55.1)	(\$80.5)
Revenues	<u>256.0</u>	<u>255.4</u>	<u>259.6</u>	<u>260.9</u>	<u>266.3</u>	<u>276.3</u>	<u>280.1</u>	<u>283.9</u>
Available Working Capital	319.5	294.5	302.2	278.1	255.3	244.4	225.0	203.4
Authorized Expenditures	280.9	252.0	285.0	289.2	287.2	299.5	305.5	311.7
Adjustments	<u>0.5</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Ending Working Capital Balance	<u>\$39.1</u>	<u>\$42.6</u>	<u>\$17.2</u>	<u>(\$11.1)</u>	<u>(\$31.9)</u>	<u>(\$55.1)</u>	<u>(\$80.5)</u>	<u>(\$108.3)</u>
Variance - Revenues less expenditures	(24.8)	3.5	(25.4)	(28.3)	(20.9)	(23.1)	(25.4)	(27.8)

The account is chronically imbalanced in large part because of a relatively inelastic revenue base – motor vehicle fuel taxes. Construction, maintenance, and operating expenditures increase with general inflation whereas the tax on motor fuels is a fixed percentage per gallon. Tax revenues increase only if the number of gallons sold increases and not relative to the price of gasoline. As such, there is no link between expenditure inflation and revenues. In the long term, revenues cannot sustain the escalating costs of the highway program without impacts on the level of the highway program. The federal highway funding legislation has expired as of October 1, 2003, and is currently being authorized through a series of extensions of the old program. If federal funds increase as anticipated when the federal highway funding legislation is reauthorized, and if a full match of available federal funds is to be achieved to provide a fully funded highways program, a revenue increase may be needed.

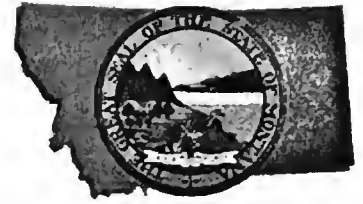


# GENERAL REFERENCE

Budget Basics  
Trust Funds







## BUDGET BASICS

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### PURPOSE

This section provides an overview of the basic budget concepts, definitions of budget terms, and background and reference information pertinent to the 2007 biennium budget and legislative appropriations process.

### TYPES OF LEGISLATIVE APPROPRIATIONS

Article VIII, Section 14, of the Montana Constitution reads:

“Prohibited Payments: Except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law and a warrant drawn by the proper officer in pursuance thereof.”

Appropriation power lies with the legislature. In 17-7-501, MCA, three types of appropriations fall within the meanings of “appropriation made by law” as used in Article VIII, Section 14, of the Montana Constitution.

Temporary appropriations – Most activities of state government are funded on a temporary basis, usually for two-year periods. Funding, therefore, must be reauthorized by each legislature. The main vehicle for the provision of temporary appropriations is HB 2 (the General Appropriations Act).

Statutory appropriations – Statutory appropriations are made directly in statute, and are automatically made until and unless the law is changed. Statutory appropriations are listed in 17-7-502, MCA.

Budget amendments – Various authorities (most often the Governor) can approve the addition of certain funds (primarily federal) during the interim if certain statutorily-defined conditions are met. General fund appropriations cannot be added without express legislative approval.

In limited cases, authorizations to expend funds can also be made through appropriation or under general laws and contracts. The great majority of state agency operations are funded through temporary appropriations.

### FUND TYPES

Governmental accounting differs from private enterprise accounting in that funding is segregated and defined by the source and use of the funding. There are four main groups of funds in state government accounting.

1. Governmental funds consist of the following funds:
  - **General fund** includes all financial resources except those that must be accounted for in another fund. The general fund collects most general taxes levied, including individual and corporate income tax, property tax, and investment income. Revenue from a number of other taxes is also deposited into the general fund.
  - **Special revenue funds** consist primarily of two funds. 1) *State special revenue* is money from state and other sources earmarked for the purpose of defraying particular costs of an agency, program, or function. The largest state special revenue accounts are the Highways State Special Revenue Account (HSSRA), which collects various fuel taxes and is used to support highway-related functions, and the general license account, which collects various hunting and fishing fees and is used to support functions in the Department of Fish, Wildlife and Parks. 2) *Federal special revenue* is revenue from federal sources. Most state agencies receive some federal funds. The two major sources of federal funds are used to support highway-related functions and human services programs such as Medicaid.
  - **Debt service funds** are used to account for the accumulation of resources for the payment of general long-term obligations, including principal and interest. Debt service funds are statutorily appropriated.
  - **Capital projects funds** are financial resources used for the acquisition or construction of major fixed assets. These funds are appropriated through bills that fund capital projects.
  - **Permanent funds** account for financial resources that are legally restricted to the extent that only earnings, but not principle, may be used. Permanent funds used to be called “nonexpendable trusts”.
2. Proprietary funds are used for operations that provide goods or services to the public on a user-charge basis (enterprise funds), or to other agencies or programs of state government (internal service funds).
3. Fiduciary funds provide for those assets held by state government in a trustee capacity, or as an agency for individuals, private organizations, other governmental entities, or other funds.
4. University funds are used to support the university system and are classified according to the College and University Business Association (CUBA) structure. The legislature appropriates a portion of the funds used to support the university system as governmental funds, which are then reclassified as university system funds.

With the exception of a small portion of proprietary funds, the legislature does not directly appropriate proprietary, fiduciary, or university funds. The legislature directly appropriates most governmental funds. Debt service funds are usually statutorily appropriated. Capital projects funds are appropriated in the bills that fund the capital projects. The great majority of general fund monies and special revenue funds are appropriated through temporary appropriations bills.

## HB 2

The temporary spending bill through which over 89 percent of general fund is appropriated is HB 2, the General Appropriations Act. The fiscal report on individual agencies contained in Volumes 3 and 4 of the *Legislative Fiscal Division 2007 Biennium Fiscal Report* concentrates on the appropriations made in HB 2.

## INTERNAL SERVICE FUNCTIONS AND RATES

Statute requires that the legislature establish fees and charges for all internal services functions. Statute further restricts programs from increasing those fees and charges during the biennium. While only a small portion of proprietary funds are appropriated in HB 2, all rates approved by the legislature are listed in that bill.

Figure 1 shows all internal services rates reviewed and approved by the legislature. The 2005 legislature transferred capitol grounds maintenance from the Department of Fish, Wildlife, and Parks to the Department of Administration.

## BUDGET TERMS

Budgets must, by statute, be submitted in three tiers to allow legislative scrutiny of all stages of budget development:

The base - defined as the resources for the operation of state government, and used to cover current biennium expenses of an ongoing and non-extraordinary nature. The base and how it is derived are discussed in more detail in the "Base Budget" portion of this narrative.

Present law - defined as that additional level of funding needed to maintain operations and services at the level authorized by the previous legislature. Present law includes but is not limited to legally-mandated workload, caseload, or enrollment changes; changes in funding requirements; inflationary or deflationary adjustments; and elimination of one-time appropriations.

New proposals - defined as requests to provide new non-mandated services, to change program services, to eliminate existing services, or to change sources of funding.

Changes to the budget are made individually through decision packages, which must be approved by the legislature. Decision packages can either change present law or add new proposals approved for funding.

## BASE BUDGET

The legislature used actual FY 2004 expenditures as recorded on the Statewide Accounting, Budgeting and Human Resource System (SABHRS) as the base for determining a present law budget for the 2007 biennium. Certain items were then excluded in order to create a base that reflects only: 1) the cost of ongoing programs or functions approved by the last legislature; and 2) expenditures authorized by the legislature. The Office of Budget and Program Planning (OBPP) and LFD staff initially reached agreement on virtually all expenditures removed from the base.

Figure 1

### Internal Services Functions 2007 Biennium

#### Agency/Program or Function

#### **Transportation**

- Motor Pool
- Equipment

#### **Revenue**

- Customer Service Center

#### **Administration**

- Administration and Financial Services Division

- Legal Services
- Management Services
- Network Support
- Warrant Writer
- Human Resources

- General Services Division

- Facilities Management (inc. grounds maintenance)
- Mail Services
- Print Services
- Central Stores
- Statewide Fueling Network
- State Procurement Card

- Information Technology Services Division

- State Personnel Division

- Professional Development
- Payroll Processing

- Risk Management and Tort Defense

#### **Fish, Wildlife, and Parks**

- Administration and Finance
- Vehicle Account
- Aircraft Per Hour
- Duplicating
- Bindery

#### **Environmental Quality**

- Central Management

#### **Natural Resources and Conservation**

- Air Operations

#### **Commerce**

- Board of Investments
- Director's Office/Management Services

#### **Justice**

- Agency Legal Services

#### **Corrections**

- Cook/Chill
- Laundry

#### **Labor and Industry**

- Centralized Services
- Business Standards

#### **Office of Public Instruction**

- Indirect Cost Pool

#### **Montana University System**

- Employee Benefits

Following is an explanation of each type of expenditure category *excluded* from the base:

### ***Appropriation Transfers***

Section 17-7-301, MCA, allows the Governor to authorize the transfer of funds appropriated for the second year of the biennium to the first year, if the Governor finds that “due to an unforeseen or an unanticipated emergency” the amount appropriated for the first year of the biennium “will be insufficient for the operation and maintenance of the department.” Since such transfers do not result from legislative action and may be used for meeting one-time costs, these transfers are excluded from the base. However, if the transfer funds an ongoing cost, present law budgets for the next biennium are adjusted accordingly.

### ***Budget Amendments***

Budget amendments provide temporary authority allowing agencies to spend unanticipated non-general fund revenue received after the legislature has adjourned. This revenue can be used to provide additional services. In accordance with 17-7-402, MCA, budget amendment authority terminates at the end of each biennium and can make no “ascertainable present or future significant commitment for increased general fund support.” Expenditures financed through budget amendments are excluded from the base. If an agency wishes to continue an activity financed with a budget amendment in the following biennium, the request must be presented as a new proposal.

### ***One-Time Appropriations***

In general, miscellaneous or “cat and dog” appropriations (appropriations made in bills other than the general appropriations act) are considered “one-time” and not continued in the base. The legislature may specify in appropriation acts that an appropriation is not intended to be ongoing and may not be included in the base.

### ***Language Appropriations***

In appropriation acts, the legislature may authorize expenditure of funds from a specific source without providing a specific dollar appropriation. Language appropriations are generally used when an agency knows that it will be receiving federal or state special revenue funds (that it is required by statute to spend) but is uncertain as to the amount of those funds. In order to be sanctioned by law as an appropriation, the language must, at least, fix a maximum amount that the appropriations may not exceed. Assuming that ongoing expenditures from these sources are one-time only in nature, the expenditures are excluded from the base.

### ***Non-Budgeted Expenditures***

Generally Accepted Accounting Principles (GAAP) require agencies to make accounting entries for depreciation, amortization, and other financial transactions that appear as expenditures, but don't result in the actual expenditure of funds from the state treasury.

### ***Statutory Appropriations***

Section 17-7-501, MCA, provides that funds may be appropriated in permanent law rather than through appropriation bills, which are effective for one biennium only. In order for a statutory appropriation to be valid, the statute creating the appropriation must specifically state that it is a statutory appropriation.

The statute must then be listed in Section 17-7-502, MCA. Examples of statutory appropriations include personal property reimbursements made to local governments and schools and motor fuel tax revenues distributed to counties.

### ***Other Appropriations***

This category includes administrative transfers created by OBPP, continuing appropriations from previous years, internal offset adjustments to appropriations, and miscellaneous appropriations.

## **ENTITLEMENT AND FORMULA-FUNDED PROGRAMS**

Under current state and federal law, certain programs are “entitlement programs,” which means that services must be provided if an individual meets the underlying criteria for qualification (i.e., the person is “entitled” to the service). Projected growth or declines in these programs are funded as part of the present law budget, rather than through new proposals. For example, the legislature has established statutory levels of state support for each child enrolled in Montana public schools. Similarly, federal and state laws require that persons eligible for Medicaid receive specified services or grants. The programs treated as entitlement include K-12 BASE aid, Medicaid, and foster care.

## **PERSONAL SERVICES “SNAPSHOT”**

The personal services budget is based on a “snapshot” of actual salaries for authorized FTE, as they existed in the last pay period of FY 2004. The budget also includes annualization of the pay increases appropriated in FY 2004 and 2005.

Workers’ Compensation and Unemployment Insurance rates vary from agency to agency. Each agency has a different rate based upon experience.

## **VACANCY SAVINGS**

Vacancy savings is the difference between the full-appropriated cost and the actual cost of authorized employee positions during a budget period. Since 1979, the legislature has periodically applied a vacancy savings factor to agency budgets in recognition of the fact that staff turnover and vacancies often result in personal services expenditures lower than the amounts appropriated.

During the 1997 biennium, the legislature included varying vacancy savings rates among selected agencies, and among programs within agencies, in order to fund the executive pay plan. A contingency fund containing \$0.5 million general fund and \$1.0 million in other funds was included for this purpose.

During the 1999 biennium, the legislature applied a uniform 3.0 percent vacancy savings rate against all positions in state government, with the exception of those positions in agencies with fewer than 20.00 FTE. The legislature also assumed that any new positions added via new proposals would not be hired at the very beginning of the fiscal year as a result of the need to recruit and to meet other requirements demanding the expenditure of time. Operating under the assumption that such positions would not be filled for the first 3 months of the fiscal year, the legislature applied a 25.0 percent vacancy savings rate in the first year. The legislature also provided \$2.3 million general fund and \$8.8 million in other funds for the biennium in support of a contingency pool for those agencies that could not meet their vacancy savings targets. A further discussion of the pay plan is included on page 105 of this volume.

For the 2001 biennium, the legislature adopted a vacancy savings rate of 3.0 percent on all personal services except insurance. This rate was not applied to agencies with fewer than 20.00 FTE, elected officials, or to direct care workers within the Department of Corrections. The legislature funded a contingency pool of \$0.7 million from the general fund and \$1.0 million in other funding for the biennium.

For the 2003 biennium, the legislature established a 4.0 percent vacancy savings rate on all personal services, including insurance, for most agencies and programs. As in the 2001 biennium, agencies with fewer than 20.00 FTE (with the exception of the Board of Crime Control, which, due to a reorganization, was reduced to fewer than 20.00 FTE during the legislative session) as well as university system faculty are exempt. In addition, the legislature adopted lower rates on certain agencies and higher rates on other programs. The legislature also included a contingency fund of \$1.3 million general fund and \$3.0 million from other funds for the biennium to meet potential costs involved for those executive and judicial agencies that do not meet their vacancy savings targets (later reduced through Governor's reductions and then in special session of the legislature), and a further \$0.2 million general fund to assist the Legislative Branch.

In the 2005 biennium, the legislature essentially adopted the same vacancy savings parameters as were established in the 2003 biennium. The contingency was increased to \$1.5 million general fund, although the equivalent of a further vacancy savings rate of about 0.5 percent was applied to all agencies to fund an additional employer contribution to build a reserve in the insurance pool.

In the 2007 biennium, the legislature again adopted a 4 percent per year vacancy savings, with exceptions for agencies with fewer than 20.00 FTE, elected officials, two programs in the Montana School for the Deaf and Blind, the highway patrol, the legislative and judicial branches, and university system faculty. A contingency fund of \$1.5 million general fund and \$3.0 million other funds was again provided to assist agencies that could not meet their vacancy savings targets.

## FIXED COSTS

Agencies are charged fees (called fixed costs) for a variety of services provided by other state agencies. The Executive Budget includes fixed costs for the following services: 1) Department of Administration insurance and bonds, warrant writing fees, payroll service fees, data network fees, SABHRS (Statewide Accounting, Budgeting, and Human Resources System) operating costs, messenger services, rent, and capitol complex grounds maintenance; 2) Legislative Audit Division audit fees; and 3) the statewide cost allocation plan.

Figure 2 shows the total amounts included for fixed costs.

### Insurance and Bonds

The Risk Management and Tort Defense (RMTD) Division of the Department of Administration collects premiums from state agencies for: 1) administration of the self-insurance program, which provides state agencies with general liability and automobile coverage; and 2) purchase of commercial policies for state agency property, aircraft, and other risk coverage. Costs are allocated to agencies based on actual loss experience and inherent exposure.

Figure 2  
Fixed Costs  
2007 Biennium (in millions)

Subcommittee/Agency	Function	Total
<b>General Government</b>		
Administration	Insurance and Bonds	\$28.9
	Warrant Writing Fees	1.6
	Payroll Service Fees	0.9
	Data Network Services	21.6
	SABHRS Operating	12.7
	Messenger Services	0.3
	Rent - Buildings	13.5
	Grounds Maintenance	0.7
	Audit Fees	3.1
Legislative Audit Division	Statewide Cost Allocation	3.7
Various		
<b>Total</b>		<b>\$87.0</b>



## ***Warrant Writing Fees***

The Department of Administration provides warrant writing and direct deposit services for agency financial transactions. The costs of these services are allocated to agencies based upon actual utilization of the various types of financial transactions in the three previous years.

## ***Payroll Service Fees***

The State Payroll program in the Department of Administration prepares and distributes payroll for all state agencies and operates the state payroll, personnel, and position control (PPP) system. Costs of these services are allocated to agencies based on the number of paychecks issued for each agency each year.

## ***Data Network Services***

The Information Services Division (ISD) of the Department of Administration charges agencies for the technology network that allows agency personal computers to be attached to the state mainframe and, via the mainframe, to other agency computers. Costs of this service are allocated to agencies based on the projected number of personal computers connected to the network each year, utilizing the fixed monthly rate per computer to determine the overall agency charge.

## ***SABHRS Operations Bureau***

This unit provides all operational support for the Statewide Accounting, Budget, and Human Resources System (SABHRS). Costs are allocated based upon the number of base year full-time equivalent employees.

## ***Messenger Service***

The Mail and Distribution program in the Department of Administration charges state agencies for inter-agency mail pick-up and delivery services. Costs of these services are allocated to agencies based on the volume of mail generated by, and number of daily deliveries to, each agency.

## ***Rent***

The General Services Division (GSD) of the Department of Administration charges rent to state agencies for costs of maintaining office and warehouse space in buildings GSD manages in the capitol complex (including utility costs, security, janitorial services, mechanical maintenance, and minor maintenance such as painting, lighting, carpeting, etc.). Warehouse costs are allocated to agencies based on the amount of square footage of warehouse space occupied and a fixed rate per square foot.

## ***Capitol Complex Grounds Maintenance***

The Department of Administration charges state agencies for grounds maintenance and snow removal at capitol complex buildings. Costs of these services are allocated based on the square footage of office space occupied by each agency. This function was transferred from the Parks Division of the Department of Fish, Wildlife, and Parks in the 2007 biennium.

## ***Audit Fees***

The Legislative Audit Division charges agencies for costs of financial compliance audits. These charges are included in agency budgets as biennial appropriations and allocated according to the estimated number of billable hours for each agency audit.

## ***Statewide Cost Allocation Plan***

There are two state cost allocation plan components that are directly billed to agencies. Cost allocations are made to collect funds for the support of those state government operating costs that cannot be easily identified with particular funding sources. Collections are deposited to the general fund to offset a portion of those costs, which would otherwise be supported entirely with general fund. The two components are: 1) SFCAP (the state fund costs allocation plan), and 2) SWCAP (the statewide cost allocation plan). SFCAP is a direct charge to offset costs. SWCAP is based upon a rate negotiated by the Department of Administration each year with the state's federal cognizant agency (Health and Human Services). These rates are now combined into one assessment to agencies. Among the programs for which operating costs are partially recovered through cost allocation plan collections are: 1) Procurement and Printing, State Personnel Division, and Accounting/Management Support in the Department of Administration; 2) a use charge on construction and renovation of certain state buildings; and 3) budget management services in the Office of Budget and Program Planning (OBPP) in the Governor's Office. Costs are allocated to agencies based upon the following: a) Procurement and Printing – depending upon the service, either requisitions processed, total operating costs, or equal allocations; b) State Personnel – the number of FTE authorized and classified, and the number of union covered employees; c) Accounting and Management Support – the number of accounting and cash transactions; and d) OBPP – the number of budget change documents, budget journal entries, executive planning process requests, and funding sources. Construction and renovation of certain state buildings is based on a user charge of 2 percent of the cost.



## TRUST FUNDS

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Montana has a number of constitutional and statutory trusts that provide interest income (over \$85 million per year) to fund state government operations. While recent legislatures eliminated the principal of the education trust; slowed the flow of revenue into the coal tax trust, parks acquisition trust, and the common school trust; and capped the growth of the resource indemnity tax trust, substantial balances remain totaling \$1.3 billion at the end of FY 2004. This chapter provides a summary of legislative action regarding trust funds in the last several biennia, and a summary of each trust fund in the categories of constitutional and statutory trusts.

### BACKGROUND – RECENT LEGISLATIVE ACTION

#### 1999 LEGISLATURE

The Fifty-sixth Legislature in the 1999 session reduced the rate of growth in many of the trusts by passing legislation that redirected incoming revenues. The Fifty-sixth Legislature passed legislation that reduced the FY 2001 ending fund balance for all trusts combined by an estimated \$26 million when compared with pre-session estimates. The reduction in revenue growth was the greatest for the Permanent Coal Tax Trust, the Treasure State Endowment, and the Common School Fund. The legislature substantially enhanced the revenue growth into the noxious weed trust and marginally increased revenue into the Resource Indemnity Trust.

#### 2001 LEGISLATURE

The Fifty-seventh Legislature in the 2001 session enacted several measures impacting state trust funds.

- HB 444 appropriated to the Department of Justice \$990,000 for the 2003 biennium as a loan from the coal severance permanent fund. The purpose of the appropriation was to conduct the natural resource damage assessment and litigation and to pursue Montana's remaining natural resource damage claims, including any appeals, against the Atlantic Richfield Company. This results in a loss of trust interest earning transfers to the general fund.
- HB 610, beginning FY 2004, reduces the amount of total coal severance tax collections deposited in the treasure state endowment fund from 37.5 percent to percent 25.0 percent and increases the amount deposited to the permanent fund from 0 percent to 12.5 percent.
- SB 495 resulted in the sale of the common school trust's mineral production rights and the diversion of future royalties that would have been deposited in the trust. As a result of the sale, the balance of the common school trust increased by \$46.4 million, but the trade-off was a substantial reduction in future growth of the trust. For further information and analysis of SB 495, contact the Legislative Fiscal Division for a copy of the two-part report: "SB 495 – Implementation, Impacts and Implications".

- o Because the resource indemnity trust reached the constitutionally protected cap of \$100 million in FY 2002, any amount in excess of \$100 million becomes available for the legislature to appropriate. In HB 2, the legislature appropriated all of the estimated \$1.1 million excess in FY 2003, thus reducing the trust balance.

## 2003 LEGISLATURE

The Fifty-eighth Legislature in the 2003 session enacted one measure impacting state trust funds. HB 160 appropriated \$650,000 to the Department of Justice for the 2005 biennium as a loan from the coal severance permanent fund. The purpose of the appropriation was to conduct the natural resource damage assessment and litigation and to pursue Montana's remaining natural resource damage claims, including any appeals, against the Atlantic Richfield Company. The resulting loss in transfer of trust interest earnings to the general fund was projected at \$21,807 in FY 2004 and \$44,135 in FY 2005.

## 2005 LEGISLATURE

The Fifty-ninth Legislature in the 2005 session enacted several measures that affect state trust funds:

- o **HB 9** – This transfers \$3,912,500 from the general fund to the cultural protection trust fund at the beginning of FY 2006, resulting in a larger balance that generates additional earnings of \$200,280 in FY 2006 and \$211,097 in FY 2007.
- o **HB 201** - The Department of Justice is appropriated the unexpended amount from the \$650,000 of loan proceeds appropriated by the 2003 legislature for the 2005 biennium from the coal severance tax permanent fund. The unexpended amount is estimated to be \$440,000. The purpose of the loan and appropriation is to conduct the natural resource damage assessment and litigation and to pursue Montana's remaining natural resource damage claims and any appeals against the Atlantic Richfield Company. Because the removal of the money from the trust results in a smaller invested balance, the resulting loss in transfers of trust interest earnings to the general fund is expected to be \$13,706 in FY 2006 and \$27,324 in FY 2007.
- o **HB 249** – Beginning FY 2006, the 25 percent of remaining coal severance tax revenue (after deposits, if any, in the coal tax bond fund and the school bond contingency loan fund) that previously had been deposited in the coal severance tax permanent fund (12.5% of total revenue), is now deposited in the new Big Sky Economic Development fund within the coal trust. On July 1, 2005, \$20.0 million of fund balance in the permanent trust fund is transferred to the Big Sky Economic Development fund. Interest earnings from this new fund are statutorily appropriated to the Department of Commerce for grants and loans to local governments for economic development projects and to certified regional development corporations. Money not spent for administration must be allocated: 1) 75 percent to local governments for job creation efforts; and 2) 25 percent to certified regional development corporations and economic development organizations. The elimination of all deposits to the permanent fund and the one-time \$20.0 million reduction in fund balance result in a loss in transfers of trust interest earnings to the general fund of \$1,338,000 in FY 2006 and \$1,581,000 in FY 2007. State special revenue increases by the same amounts.
- o **HB 447** – Money to pay for salary and benefit increases for state employees is appropriated in the legislation. Increases in state special revenue appropriations for the pay plan from the timber sale account administered by the Department of Natural Resources and Conservation decrease the amount of money deposited to the school trust by \$2,454 in FY 2006 and \$6,424 in FY 2007.

# MAJOR TRUST FUNDS

## OVERVIEW

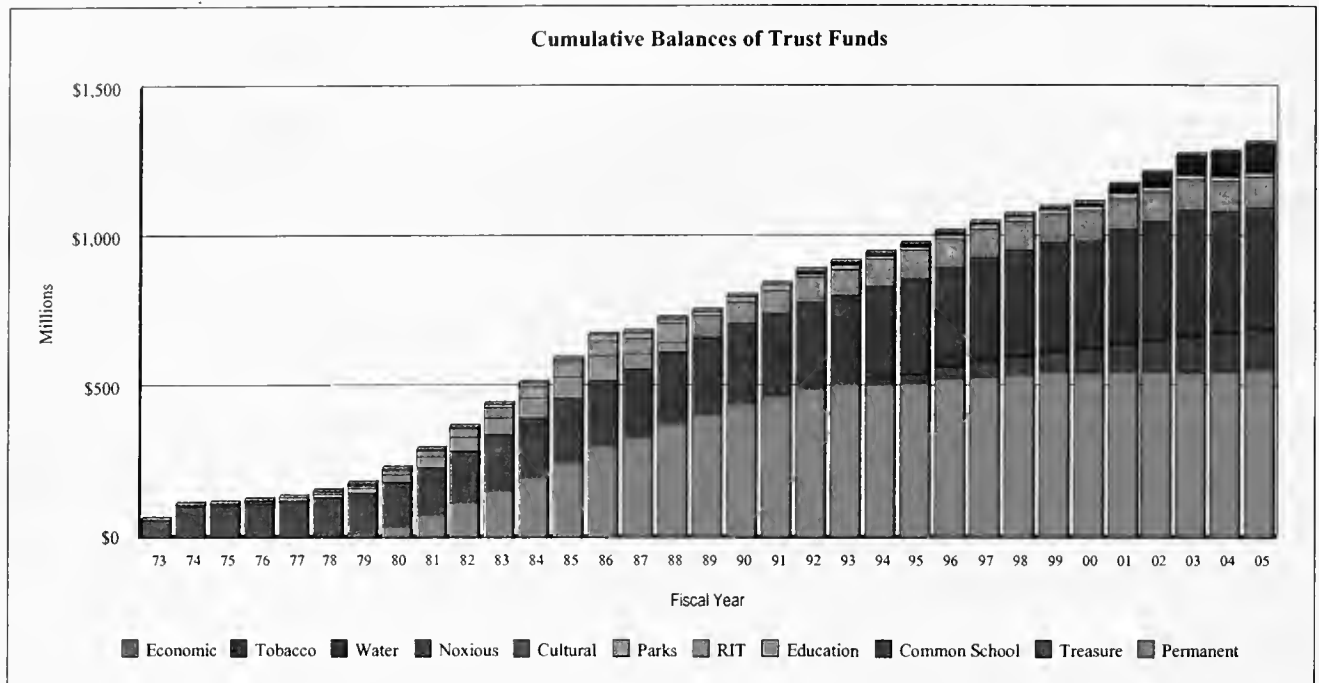
Figures 1 and 2 show the history of the ten major trusts since FY 1973. Forecast amounts are shown for FY 2005, 2006 and 2007, and are based on assumptions contained in the revenue estimating resolution (HJR2). Following is a description of each trust and the income it generates. Also shown are expected interest earnings from each trust in FY 2005, 2006, and 2007.

Figure 1

### Selected Trust Fund Balances Including Projected Investment Earnings

Fiscal Year	Permanent Coal Tax Trust Fund	Treasure St Endowment Trust Fund	Common School Trust Fund	Education Trust Fund	Resource Indemnity Trust Fund	Parks Acquisition Trust Fund	Cultural Protection Trust Fund	Noxious Weed Trust Fund	Regional Water Trust Fund	Tobacco Trust Fund	Economic Development Trust Fund	Total Trust Funds
A 73	0	0	\$64,223,773	0	0	0	0	0	0	0	0	\$64,223,773
A 74	0	0	108,998,870	0	\$1,141,385	0	0	0	0	0	0	110,140,255
A 75	0	0	113,064,188	0	3,287,456	0	0	0	0	0	0	116,351,644
A 76	0	0	117,849,628	\$2,227,793	5,552,291	\$278,725	0	0	0	0	0	125,908,437
A 77	0	0	123,281,528	6,039,530	8,232,247	758,308	0	0	0	0	0	138,311,613
A 78	\$6,268,262	0	129,949,247	8,983,763	10,646,851	1,174,356	0	0	0	0	0	157,022,479
A 79	16,940,538	0	137,716,735	12,339,549	12,574,209	1,475,732	0	0	0	0	0	181,046,763
A 80	39,964,765	0	147,527,943	23,905,146	16,204,531	3,565,371	0	0	0	0	0	231,167,756
A 81	75,187,459	0	163,163,556	33,624,170	21,165,464	5,325,746	0	0	0	0	0	298,466,395
A 82	118,336,314	0	176,467,865	44,338,477	28,328,946	7,480,418	0	0	0	0	0	374,952,020
A 83	158,358,806	0	189,390,417	52,665,410	36,181,889	9,481,542	0	0	0	0	0	446,078,064
A 84	202,936,358	0	201,319,109	60,925,268	42,986,128	11,565,460	0	0	0	0	0	519,732,323
A 85	252,420,524	0	214,764,544	70,500,922	47,396,179	13,859,181	0	0	0	0	0	598,941,350
A 86	309,384,250	0	217,677,906	79,761,708	53,039,675	16,222,131	0	\$443,184	0	0	0	676,528,854
A 87	339,883,180	0	227,687,073	44,091,429	56,861,627	16,613,608	0	824,550	0	0	0	685,961,467
A 88	381,180,287	0	239,553,633	33,671,110	61,750,961	16,581,042	0	1,070,972	0	0	0	733,808,005
A 89	411,838,993	0	254,128,428	8,651,477	66,665,000	16,608,706	0	1,320,720	0	0	0	759,213,324
A 90	446,511,416	0	268,496,362	0	72,811,618	17,936,701	0	1,688,370	0	0	0	807,444,467
A 91	470,322,655	0	280,326,496	0	77,324,921	18,882,548	0	2,121,973	0	0	0	848,978,593
A 92	496,465,569	0	291,753,603	0	82,489,898	12,588,366	\$7,051,506	2,584,254	0	0	0	892,933,196
A 93	511,474,640	0	300,782,863	0	86,890,369	12,538,119	6,863,579	2,534,844	0	0	0	921,084,414
A 94	511,754,471	\$20,520,830	310,735,129	0	89,316,268	12,538,119	7,025,290	2,518,875	0	0	0	954,408,982
A 95	515,470,287	31,793,125	321,265,835	0	91,614,674	12,538,119	7,296,373	2,544,390	0	0	0	982,522,803
A 96	530,144,251	42,262,548	331,630,225	0	93,152,864	12,998,633	7,518,157	2,502,197	0	0	0	1,020,208,875
A 97	538,223,210	52,210,048	347,298,490	0	94,584,643	13,483,000	3,846,000	2,527,953	0	0	0	1,052,173,344
A 98	545,789,038	61,800,580	355,329,490	0	95,582,249	14,005,728	3,852,201	2,537,621	0	0	0	1,078,896,907
A 99	555,204,609	68,334,808	365,188,709	0	94,991,658	14,399,076	3,852,202	2,471,388	0	0	0	1,104,442,450
A 00	553,031,020	81,347,120	359,661,156	0	96,404,163	14,834,592	4,050,384	3,635,000	\$3,441,977	0	0	1,116,405,412
A 01	557,477,352	92,182,012	384,741,584	0	100,373,547	15,376,300	4,257,671	4,760,000	7,389,930	\$10,819,202	0	1,177,377,598
A 02	555,718,038	105,383,384	394,132,998	0	102,065,653	15,777,802	4,454,360	4,760,000	11,914,241	23,203,088	0	1,217,409,564
A 03	553,406,844	120,337,392	424,415,537	0	100,000,965	15,777,996	4,454,456	5,073,619	16,902,479	35,830,328	0	1,276,199,616
A 04	557,754,322	128,083,371	405,618,690	0	100,002,390	16,289,556	4,653,188	4,864,635	21,078,919	46,788,330	0	1,285,133,401
<b>Fund Balance Forecast</b>												
F 05	561,735,000	136,391,000	408,946,000	0	100,254,844	16,712,000	4,862,000	4,864,635	25,233,000	57,513,000	0	1,316,511,479
F 06	541,735,000	144,292,000	410,613,000	0	100,254,844	17,113,000	8,474,000	4,864,635	29,183,000	66,278,000	23,950,000	1,346,757,479
F 07	541,735,000	152,013,000	412,280,000	0	100,254,844	17,523,000	8,677,000	4,864,635	33,044,000	75,055,000	27,984,000	1,373,430,479
<b>Investment Earnings Forecast</b>												
F 05	33,892,000	8,337,000	24,929,000	0	6,898,000	1,080,000	315,000	253,118	1,348,000	2,841,000	0	79,893,118
F 06	32,211,000	8,578,000	24,077,000	0	6,626,000	1,061,000	515,000	253,118	1,553,000	3,301,000	1,352,000	79,527,118
F 07	32,290,000	9,071,000	24,178,000	0	6,627,000	1,086,000	539,000	253,118	1,797,000	3,820,000	1,608,000	81,269,118

Figure 2



Various restrictions, either constitutional or statutory, prohibit or restrict the expenditure of all or a portion of trust fund balances. For example, the Constitution prohibits expenditure of money in the resource indemnity tax trust until the balance reaches \$100 million. Since the balance of this trust is at this limit, any additional trust balance can be spent. Figure 3 shows the 9 trust funds, their fiscal 2004 balances, and the restrictions for spending the balances.

**Figure 3**  
**Selected Trust Funds**  
**Balances and Restrictions**

Type of Restriction/Trust Fund	Fiscal 2004 Balance	Restrictions
<b>Statutory</b>		
Parks Acquisition Trust	\$16,289,556	None
Cultural Trust	<u>4,653,188</u>	None
Subtotal	\$20,942,744	
<b>Constitutional</b>		
Permanent Coal Severance Tax Trust	\$557,754,322	Inviolate, except by 3/4 vote of each house
Common School Trust	405,618,690	Inviolate, guaranteed by state against loss or diversion
Treasure State Endowment Trust	128,083,371	Inviolate except by 3/4 vote of each house
Resource Indemnity Tax Trust	100,002,390	Inviolate, \$100 million guaranteed by state against loss or diversion
Tobacco Settlement Trust	46,788,330	Inviolate, except by 2/3 vote of each house
TSE Regional Water System Trust	21,078,919	Inviolate, except by 3/4 vote of each house
Noxious Weed Management	<u>4,864,635</u>	\$10 million inviolate, except by 3/4 vote of each house *
Subtotal	\$1,264,190,657	
<b>Total</b>	<u>\$1,285,133,401</u>	

\* If the statutory noxious weed management trust is designated by the legislature to be the constitutional trust.

## CONSTITUTIONAL TRUSTS

### *Permanent Coal Tax Trust*

Article IX, Section 5 of the Montana Constitution requires that at least 50 percent of all coal severance tax revenue be deposited in a permanent coal tax trust fund, and that the principal of the trust "shall forever remain inviolate unless appropriated by a vote of three-fourths of the members of each house of the legislature." By statute, interest earned on this trust that is not earmarked for other programs is distributed 100 percent to the general fund. As described below, some of the interest earned on the trust is earmarked for other programs.

The interest earned on the permanent coal tax trust fund is an important general fund revenue source. During the period of FY 1981 through FY 2004, \$821.9 million in interest from this trust was deposited in the combined general fund/school equalization account (SEA). In FY 2004, permanent coal tax trust fund interest provided 2.5 percent of total revenue to the general fund.

Initiative 95, approved by voters in 1982, required that 25 percent of the revenue deposited in the permanent coal tax trust after June 30, 1983, be placed in the in-state investment trust fund for investment in the Montana economy "with special emphasis on investments in new or expanding locally owned enterprises." The 1991 legislature: 1) eliminated separate accounting for the in-state investment trust; and 2) instructed the Board of Investments to "endeavor to invest up to 25 percent of the permanent coal tax trust fund" in the Montana economy.

The 1989 and 1991 legislatures gave authority to the Montana Science and Technology Alliance (MSTA) for the use of \$12.5 million from the in-state investment fund for investment in new and expanding technology-based Montana businesses and for research and development project loans. The 1993 legislature authorized MSTa to invest an additional \$11.0 million from the in-state investment program.

The payback of principal from MSTA loans returns to the trust. Before July 1, 1993, the interest from MSTA loans was distributed in the same manner as other interest earned on the permanent coal tax trust fund. HB 394, enacted by the 1993 legislature, created a special revenue account into which all interest earned from MSTA loans is deposited and from which MSTA expenses will be paid, with the balance returning to the trust.

The 1991 legislature also appropriated \$3.3 million from the permanent coal tax trust fund for the Micro business Development Act. These funds provided capital to micro business development corporations that provide loans and technical assistance to qualified small businesses. Interest earnings and loan repayments were retained by the program to finance administrative costs and future loans.

During the January 1992 special session, the legislature authorized the creation of a school bond contingency loan fund within the permanent coal tax trust fund. The contingency fund provided up to \$25.0 million in loan guarantees for school district bonds certified by the Department of Administration as meeting certification standards, but for which subsequent litigation prevents collection of property taxes levied for debt service. School districts are required to repay any guarantee funds used. Interest on the contingency fund is distributed in the same manner as all other interest earned on the permanent coal tax trust fund. The provisions of this legislation expired on January 1, 1993. HB 667, passed during the 1993 legislative session, provides Guaranteed Tax Base (GTB) aid to certain schools with bonds outstanding or bond issues contemplated. The source of funding for GTB aid was the school equalization account (SEA). The contingency fund will continue to exist until calendar 2012 when the bonds will be retired. At the end of FY 2003, all schools districts with loans backed by the state had refinanced their debt and the state no longer secures the bonds issued by the Department of Administration. In FY 2003, all reserves in the contingency fund were distributed to the treasure state endowment fund and the treasure state endowment regional water fund.

In the June 1992 election, voters approved a referendum to create the treasure state endowment fund (TSEF) within the permanent coal tax trust fund. The fund received a \$10.0 million grant from the trust principal in FY 1994 and will receive half the funds deposited in the trust during FY 1995 through FY 2013. Interest earned on the TSEF is used to finance local infrastructure projects, as prioritized by the Departments of Commerce and Natural Resources and Conservation, and authorized by the legislature.

During the November 1993 special session, the legislature authorized SB 4 that required the cash balance in the coal tax bond fund as of July 1, 1993 be deposited in the permanent coal tax trust fund. The total amount transferred was \$31.1 million. SB 4 also changed the distribution mechanism by requiring the 50 percent coal severance tax revenue allocation be deposited in the TSEF and the permanent coal tax trust fund on an equal basis. Prior to SB 4, coal severance tax revenue earned on production taking place beginning July 1, 1993, was to have been deposited in TSEF. In the following fiscal year, one-half of the previous year's inflow was to have been deposited in the permanent coal tax trust fund, and the TSEF was to retain the rest. Without SB 4, the permanent coal tax trust fund would not have received any coal severance tax revenue during FY 1994.

The 1993 legislature passed HB 401, which authorized a loan to the Department of Environmental Quality (DEQ) from the permanent coal tax trust fund for technical, litigation, and administrative expenses associated with the natural resource damage litigation suit against the Atlantic Richfield Company in the Clark Fork River Basin. The amount of the loan was \$2.6 million for the 1995 biennium and \$5.2 million to repay principal and interest to the general fund for litigation costs incurred in the



1993 biennium. As of December 1994, \$6.3 million had been withdrawn from the permanent coal tax trust to pay for litigation expenses. Since then, the case has been settled and money returned to the permanent trust (see the write-up of HB 110 enacted by the 1997 legislature).

### **1995 Legislative Action**

HB 305 authorized a loan to the Department of Justice from the permanent coal tax trust for the purpose of conducting the litigation and natural resource claims against the Atlantic Richfield Company in the Clark Fork River Basin. The amount of the loan was \$2.4 million for the 1997 biennium. The bill also extended loans made for the same purpose during the 1995 biennium.

HB 354 expanded appropriations for the Micro business Financing Act, which provides loans to businesses employing less than ten employees and generating less than \$500,000 in gross revenue annually. The expansion of this program doubled the previous appropriation to \$3.25 million of investable coal tax trust funds made available to the Micro business Finance Program in the Department of Commerce. Beginning July 1, 1995, HB 354 also increased maximum loan amounts per individual loan from \$20,000 to \$35,000. The program provides financing for working capital assets and fixed asset acquisition, with more flexible repayment terms than those offered by commercial institutions. Payback of interest and principal of the loan amounts are used for administrative purposes and for financing new micro business loans.

SB 38 authorized the Job Investment Act under which the Department of Commerce may loan a portion of the permanent coal tax trust to businesses to create and retain jobs in Montana. A loan to a qualified business may not exceed \$500,000, and the department is to report annually to the Revenue and Taxation Committee. The legislation also reduced the amount of permanent coal tax trust funds that the Board of Investments allows the Montana Board of Science and Technology Development to invest in seed capital loans and mezzanine loans from \$15.5 million to \$12.5 million. The bill also increased the amount of permanent coal tax trust funds available for research and development projects from \$8.1 million to \$11.1 million. In the past, these funds were used primarily as loans to the University System. Under SB 38, these funds were granted to the University System for research and development projects.

SB 83 abolished the distribution of coal trust interest to the SEA. Under previous law, 15 percent of coal trust interest earnings were deposited in the SEA and 85 percent in the general fund. As a result of SB 83, 100 percent of coal trust interest earnings are deposited in the general fund in FY 1996 and beyond.

### **1997 Legislative Action**

HB 110 appropriated to the Department of Justice \$2.5 million in state special revenue to be used for continuing litigation expenses associated with the Atlantic Richfield case. The appropriation was for expenses incurred during the 1999 biennium, and, upon settlement of the case, the amount used plus interest was to be returned to the general fund. The case was settled in June of 1998 for \$215 million. On June 24, 1998, \$15 million was deposited into Short-Term Investment Pool (STIP) for payment to the permanent trust and the general fund. In the middle of October 1998, \$12.2 million was transferred to the permanent trust, including \$9.8 million in principal and \$2.4 million in interest. In the middle of November 1998, \$1.9 million was transferred to the general fund. This transfer consisted of principal (\$1.4 million) and interest (\$0.5 million), and constituted repayment of general fund loans going back to FY 1983 when the case began.

The legislature amended the allocation of coal severance taxes under 15-35-108, MCA. In HB 14, the 1997 legislature authorized the issuance of general obligation bonds to fund the purchase of Virginia City and Nevada City properties. In HB 5, the legislature allocated 1.3 percent of coal severance tax revenue to pay the debt service on the bonds, which have a term of ten years. Coal tax revenue will be distributed to the Long-Range Building Program (LRBP) debt service account for FY 1998 through 2007. This allocation diverts coal severance tax revenue that would otherwise be deposited in the general fund. Based on revenue estimates in HJR 2, this change in allocation resulted in a loss to the general fund of \$0.5 million in FY 1998 and 1999. Once the ten-year period has expired, the 1.3 percent allocation will revert to the general fund.

HB 5 also eliminated the 0.63 percent distribution of coal severance tax to the cultural and aesthetic (C&A) trust during the 1999 biennium only. The legislature appropriated \$3.9 million from the cultural trust for the immediate purchase of Virginia City and Nevada City. This appropriation resulted in a loss of trust interest revenue that otherwise would have been used to fund C&A projects during the 1999 biennium. In order to compensate for the lost interest, the legislature allocated 0.87 percent of coal severance tax revenue to the C&A projects account and eliminated the 0.63 percent of coal severance tax revenue that had been deposited in the cultural trust. The remaining 0.24 percent of coal taxes allocated to the C&A project account was previously part of the flow into the general fund. Based on revenue estimates in HJR 2, this part of HB 5 resulted in a loss to the general fund of \$91,736 and \$93,195 for FY 1998 and 1999, respectively. After the 1999 biennium, similar amounts of coal severance tax revenue were diverted from the C&A projects account and again flowed to the general fund.

HB 578 abolished the Montana Board of Science and Technology beginning July 1, 1999. The amount of money committed for research and development (\$11.1 million) and for seed capital loans (\$12.5 million) was disbursed until July 1, 1999. Any money under these caps that had not been committed, except for \$915,000, was returned to the coal tax trust. The board continued to provide seed capital loans of up to \$700,000 to existing seed capital companies until July 1, 1999 or until an amount of \$915,000 was reached. However, up to \$75,000 could have been used for administrative expenses. Beginning April 1, 1997, the proceeds from seed capital loans must be deposited in the coal tax trust. However, during FY 1998, \$250,000 of seed capital income, as well as \$150,000 of job investment loan income, was used to fund the judges' retirement system. Also beginning April 1, 1997, and ending July 1, 1999, up to \$2.0 million in income and interest from research and development loans at Montana public universities was authorized to be granted to research and development (R&D) projects at the universities. After July 1, 1999, all repayment proceeds from both seed capital loans and R&D loans in excess of \$4.4 million must be deposited in the coal severance tax permanent fund.

### 1999 Legislative Action

Beginning July 1, 1999, HB 260 imposed a new coal license tax on the contract sales price of coal and reduced the coal severance tax liability for coal producers by allowing a credit against the coal severance tax in the amount of 101.5 percent of the coal license tax liability. Thus, coal producers would realize a reduction of 1.5 percent in the tax liability on coal production. The total reduction in coal severance tax collections was estimated at \$20.7 million in FY 2000 and \$19.6 million in FY 2001. The new coal license tax was estimated to generate \$20.4 million in FY 2000 and \$19.3 million in FY 2001. The legislation, in combination with HB 69 and SB 220, provided a new distribution of coal severance taxes and specified a distribution for the new coal license tax. Under the new distribution, none of the coal severance revenue would have been distributed to the permanent trust. Instead, 37.5 percent of the reduced coal severance tax revenue stream would have been deposited in the treasure state

endowment trust fund, and 12.5 percent would have been deposited in a new TSEF regional water system account (SB220). The remaining distribution of the coal severance tax would be deposited as under previous law, except that the amount (1.3 percent) to long range building program debt service would have been directly deposited in the general fund as per HB 69. Coal severance tax revenue deposited in the permanent fund would be reduced by \$8.3 million in FY 2000 and by \$7.9 million in FY 2001. None of the new coal license tax would have been allocated to the permanent fund. Coal severance tax revenue deposited in the TSEF would have been reduced by \$3.6 million in FY 2000 and \$3.4 million in FY 2001. The revenue diversions in the each trust, as well as some of the revenue from the new coal license tax, would have been deposited into spendable accounts used for ongoing projects and payments associated with infrastructure loans and grants, agricultural seed capital, and research and commercialization loans and grants.

However, on January 20, 2000, the Montana Supreme Court found that HB 260 violated Article IX, Section 5, of the Montana Constitution and enjoined enforcement of the new coal producer's license tax. This rendered most of the legislation and appropriations meaningless. The decision did not affect the establishment of the research and commercialization expendable trust. Coordination with SB 220 also was not affected, allowing the establishment of the treasure state endowment regional water system trust and the distribution of coal severance tax to the trust, and the TSEF remain intact.

HB 69 eliminated the distribution of coal severance tax revenue to the long range building debt service account that was used to pay bonds issued for the purchase of Virginia City and Nevada City properties. Beginning July 1, 1999, the revenue is deposited in the general fund and the bond service payments are made by the general fund.

Beginning July 1, 1999, SB 220 created a new treasure state endowment regional water system fund into which is deposited 25 percent of one-half of all coal severance receipts. The other 75 percent of one-half of coal severance receipts flows into TSEF.

## 2001 Legislative Action

The Fifty-seventh Legislature in the 2001 session enacted HB 444 that appropriated \$990,000 for the 2003 biennium to the Department of Justice as a loan from the coal severance permanent fund. The purpose of the appropriation is to conduct the natural resource damage assessment and litigation, and to pursue Montana's remaining natural resource damage claims, and any appeals against the Atlantic Richfield Company. The resulting loss in transfers of trust interest earnings to the general fund was an estimated \$17,573 in FY 2002 and \$52,718 in FY 2003. Any reimbursements received had to be deposited in the coal severance tax permanent fund. The legislation required a three-quarters vote of each house of the legislature.

Beginning FY 2004, HB 610 reduced the amount of total coal severance tax collections deposited in the treasure state endowment fund from 37.5 percent to percent 25.0 percent, and increased the amount of total collections deposited to the permanent fund from 0 percent to 12.5 percent. These changes resulted in greater interest earnings for the general fund and lower interest earnings for Treasure State Endowment Program beginning FY 2004.

In conjunction with HB 41, SB 495 changes the portion of school funding provided by the common school trust. The main points of the legislation are:

- o Interest and income from the common school trust are deposited to a sub fund of the general fund called the guarantee account

- The Department of Natural Resources and Conservation was authorized to purchase the mineral production rights from the common school trust
- A loan of up to \$75 million from the coal severance trust permanent fund was authorized to purchase the mineral production rights and deposited in the common school trust (the actual transaction was \$46.4 million)
- Any mineral royalties from the purchased rights are deposited to the guarantee account
- After principal and interest payments on the loan used to purchase the mineral production rights are paid, the remaining money in the guarantee account is available for distribution to school districts
- Upon electorate approval of a constitutional amendment (contained in SB 493), the public school trust may be invested in private corporate capital stock (the electorate did not approve this measure)

Although it was estimated that the cost of the mineral production rights would be \$37.4 million, the actual amount loaned from the coal severance permanent fund was \$46.4 million. It is estimated that the loss of interest earnings that would have been deposited to the general fund is \$3.2 million in each year of the 2005 biennium. The legislation required a three-quarters vote of each house of the legislature.

Coal tax revenue flowing into the permanent coal tax trust fund is also used to secure state bonds issued to finance water resource development projects and activities.

Coal tax revenue is first deposited into the school bond contingency loan fund within the permanent coal tax trust fund. The contingency fund provides up to \$25.0 million in loan guarantees for school district bonds certified by the Department of Administration as meeting certification standards, but for which subsequent litigation prevents collection of property taxes levied for debt service. The contingency fund has provided backing for \$24.6 million in school bonds for 16 schools. The average balance in the contingency fund has been slightly more than \$2.0 million. At the end of FY 2003, all schools districts with loans backed by the state had refinance their debt and the state no longer secures the bonds issued by the Department of Administration. In FY 2003, all reserves in the contingency fund were distributed to the treasure state endowment fund and the treasure state endowment regional water fund.

In the August 2002 special legislative session, the legislature passed HB 4 and HB 7. Combined, these bills changed the guarantee account from a sub fund in the general fund to a state special revenue fund and statutorily appropriated the money for schools.

### **2003 Legislative Action**

HB 160 appropriated \$650,000 to the Department of Justice for the 2005 biennium as a loan from the coal severance permanent fund. The purpose of the appropriation was to conduct the natural resource damage assessment and litigation and to pursue Montana's remaining natural resource damage claims, including any appeals, against the Atlantic Richfield Company. The resulting loss in transfers of trust interest earnings to the general fund was projected at \$21,807 in FY 2004 and \$44,135 in FY 2005. Any reimbursements received must be deposited in the coal severance tax permanent fund. The legislation required a three-quarters vote of each house of the legislature.

## 2005 Legislative Action

HB 201 appropriated the unexpended amount of the \$650,000 loan proceeds (estimated to be \$440,000) from the coal severance tax permanent fund appropriated by the 2003 legislature to the Department of Justice. The purpose of the loan and appropriation is to conduct the natural resource damage assessment and litigation and to pursue Montana's remaining natural resource damage claims and any appeals against the Atlantic Richfield Company. Because the removal of the money from the trust results in a smaller invested balance, the resulting loss in transfers of trust interest earnings to the general fund is expected to be \$13,706 in FY 2006 and \$27,324 in FY 2007.

House Bill 249 – Beginning FY 2006, the 25 percent of remaining coal severance tax revenue (after deposits, if any, in the coal tax bond fund and the school bond contingency loan fund) that previously had been deposited in the coal severance tax permanent fund (12.5% of total revenue), is now deposited in the new Big Sky Economic Development fund within the coal trust. On July 1, 2005, \$20.0 million of fund balance in the permanent trust fund is transferred to the Big Sky Economic Development fund. Interest earnings from this new fund are statutorily appropriated to the Department of Commerce for grants and loans to local governments for economic development projects and to certified regional development corporations. Money not spent for administration must be used: 1) 75 percent to local governments for job creation efforts; and 2) 25 percent to certified regional development corporations and economic development organizations. The elimination of all deposits to the permanent fund and the one-time \$20.0 million reduction in fund balance result in a loss in transfers of trust interest earnings to the general fund of \$1,338,000 in FY 2006 and \$1,581,000 in FY 2007. State special revenue increases by the same amounts.

## Common School Trust

Article X, Sections 2 and 3 of the Montana Constitution require that all royalties and other proceeds received from school lands granted to the state under the federal enabling act must be deposited in the common school trust fund and "shall forever remain inviolate, guaranteed by the state against loss or diversion." Article X, Section 5 requires that 95 percent of the interest from this trust be used for school equalization, with the remaining 5 percent reinvested in the trust. In addition, 95 percent of all rents, royalties, and other income received from leasing of school lands is to be used for public schools with the remaining 5 percent invested in the trust.

During the January 1992 special session, the legislature passed HB 3, which provided that 95 percent of the revenue from state timber sales (approximately \$4.9 million) be deposited in the SEA during the 1993 biennium, with the remaining 5 percent deposited in the trust.

The 1993 legislature passed HB 652, which continued the practice of diverting 95 percent of timber revenue to the SEA during the 1995 biennium. The loss in revenue to the common school trust during the 1995 biennium was approximately \$9.1 million. HB 667, also passed during the 1993 legislative session, continued this practice indefinitely. The loss of revenue to the common school trust during the 1997 biennium was approximately \$9.7 million.

## 1995 Legislative Action

HB 50 made permanent certain provisions regarding the sale of timber on state lands. HB 50 was expected to result in additional sales of timber during the 1997 biennium. However, additional costs associated with the sale of timber were also expected to be incurred. These costs were deducted from timber sale revenues.

HB 201, passed by the 1995 legislature, required the state to increase timber sales from state lands consistent with an annual sustainable yield of 45 million board feet to 55 million board feet, contingent on a study to determine the appropriate level of annual sustainable yield. HB 201 capped the amount of timber sale revenue deposited in the general fund (formerly the school equalization account, which was abolished in SB 83) from the common school trust at an average annual sale value of 18 million board feet. Any excess timber sale revenue from the common school trust was to be deposited in the general fund, but "earmarked" for deposit in the school districts' newly established technology acquisition fund, to buy technological equipment and provide technical training for school district personnel.

HB 201 also affected timber sale revenue because it diverted timber sale revenue before it was deposited in the general fund to pay for costs associated with increasing timber sales. The total revenue effect was estimated to be a loss of \$1.1 million to the general fund during the 1997 biennium.

HB 274, passed by the 1995 legislature, granted the Department of State Lands broader discretion to expedite sales of state timber in emergency situations and limited access situations. Effective in FY 1996, as a result of the natural resources reorganization bill (SB 234), the forestry function was transferred from the Department of State Lands to the Department of Natural Resources and Conservation.

SB 83 de-earmarked all interest from the common school trust and income earned on common school lands. Henceforth, these revenues flow into the general fund.

### 1997 Legislative Action

The 1997 legislature passed legislation that impacted the flow of timber revenue into the common school trust by appropriating timber revenue for use by the DNRC to enhance timber sales during the 1999 biennium. The amounts appropriated, \$1.2 million and \$1.3 million in respective years of the biennium, were diverted from the revenue stream before the allocation of 5 percent of revenue to the trust.

HB 2 appropriated anticipated timber sale revenue in excess of that associated with 18 million board feet for deposition in schools' technology acquisition funds. The purpose of the fund is to allow each district to buy technological equipment and provide technical training for school district personnel. The amounts appropriated were \$1.5 million in FY 1998 and \$2.8 million in FY 1999, or the amount of "excess" revenue in each year, whichever is less.

### 1999 Legislative Action

SB 48 made significant changes in funding the Trust Land Management Division in the Department of Natural Resources and Conservation. The legislation diverted a portion of the following money (previously deposited into the corpus of the land trust funds) from certain land trusts administered by the department: 1) mineral royalties; 2) the proceeds or income from the sale of easements and timber (except timber from public school lands); and 3) 5 percent of the interest and income previously credited annually to the public school fund. The money was diverted to a state special revenue account to pay costs of administering state trust lands. The legislation provided limitations on the amount of diverted revenue and the amount of the appropriations: 1) the diverted revenue was limited to 1-1/8 percent of the book value balance in each of the nine nonexpendable trust funds on the first day of January preceding the new biennium and 10 percent of the previous fiscal year revenue deposited into the capitol building land grant trust fund; and 2) appropriations of the money were limited to 1-1/8

percent of the book value balance in the nine nonexpendable trust funds on the first day of January preceding the new biennium and 10 percent of the revenue deposited in the capitol building land grant trust fund in the last completed fiscal year prior to the new biennium. In HB 2, the legislature replaced \$7.1 million of general fund appropriations with state special revenue provided by this legislation. Therefore, deposits to land trusts (primarily the Common School Trust) were reduced by \$7.1 million over the biennium, approximately \$3.5 million per year.

### **2001 Legislative Action**

Although SB 495 potentially could have increase the balance of the common school trust by \$75 million due to the sale of its mineral production rights, the increase depended on the amount of rights purchased by DNRC and the sale price. The actual purchase price of the mineral production rights was \$46.4 million and this amount was deposited to the trust. Since future royalties from any sold mineral production rights are no longer deposited in the common school trust, the future growth of the trust is substantially curtailed by an estimated \$95 million over 30 years. For further information and analysis of SB 495, contact the Legislative Fiscal Division for a copy of the two-part report: "SB 495 – Implementation, Impacts and Implications".

### **2005 Legislative Action**

Under existing law, a portion of income from the sale of common school trust timber is diverted for used by the Department of Natural Resources and Conservation for administrative purposes and a portion is for use by the Office of Public Instruction for school technology. Five percent of the remainder is deposited in the school trust. If the legislature appropriates more of this income for administrative purposes, the amount deposited to the school trust is reduced. HB 447 (the state employee's pay plan) appropriated money from this source for increases in pay and benefits, thus reducing the amount deposited to the trust by \$2,454 in FY 2006 and \$6,424 in FY 2007.

### ***Resource Indemnity Trust***

Article IX, Section 2 of the Montana Constitution and Title 35, Chapter 38, MCA, require that certain resource extraction taxes be placed in a trust. The principal of the resource indemnity trust "shall forever remain inviolate in an amount of one hundred million dollars (\$100,000,000), guaranteed by the state against loss or diversion." Once the principal of the trust reaches \$100 million, any additional tax revenue may be appropriated.

During the July 1992 special session, the legislature imposed a one-year surtax on resource indemnity tax liabilities and allocated collections from the surtax to the general fund. During the 1993 legislative session, the legislature passed HB 608 that decreased the amount of resource indemnity and groundwater assessment (RIGWA) tax proceeds deposited in the trust during the 1995 biennium from 85.9 percent per year to 55.9 percent, or approximately \$5.0 million. The bill further reduced the amount of RIGWA tax revenue deposited in the trust to 45.9 percent beginning July 1, 1995. During the 1995 session, the legislature replaced a portion of RIGWA tax proceeds with oil and gas tax proceeds due to a bill to simplify oil and gas taxes (SB 412). Also, the legislature diverted for other purposes the metal mines license tax proceeds that previously were deposited to the trust.

### **1997 Legislative Action**

SB 377 reduced the growth rate in the ending fund balance of the RIT trust by diverting \$200,000 per year from RIGWA tax inflows and 8.5 percent from metalliferous mines license tax revenue to a newly created orphan share account. The reduction of inflow into the trust in each year of the biennium as a



result of these diversions was \$674,000 and \$743,000. The orphan share account is used to: 1) fund remedial actions on the portion of hazardous waste sites for which there is no responsible party; and 2) pay for DEQ transaction costs associated with defending the orphan share proportions.

### **1999 Legislative Action**

SB 49 and SB 492 increased the allocation of the RIGWA tax and the RIT share of the oil and gas production tax to the RIT. The ending fund balance at the end of the 2001 biennium was estimated to increase by \$162,000 as a result of the legislation. The legislation also eliminated the allocation of RIGWA tax revenue to the RIT beginning July 1 of the first year following the date that the governor by executive order certified to the secretary of state that the RIT balance has reached \$100 million.

### **2001 Legislative Action**

The RIT balance reached the \$100 million amount in FY 2002 and the balance was certified by the governor. Therefore, no additional revenue is deposited in the trust beginning FY 2003. The revenue estimates showed that there would be an estimated \$101.1 million in the trust balance by the end of FY 2003. Since any additional tax deposits over the \$100 million may be appropriated by the legislature, the 2001 legislature enacted the following legislation that uses all of the excess revenue: 1) SB 326 authorized the transfer of \$500,000 to the noxious weed state special revenue account for distribution to counties (the money is appropriated in HB 2); 2) HB 2 transferred and appropriated \$540,000 to purchase securities for water treatment at the former Zortman and Landusky mines; and 3) HB 2 transferred and appropriated \$120,000 for the Clark Fork River task force (established in HB 397).

### ***Tobacco Settlement Trust***

Montana receives revenue as a settling party to master settlement agreement with four original tobacco companies (subsequently, this became three) and 43 subsequent companies that ended a four-year legal battle that included 46 states, and six other entities. Montana is eligible for four types of payments: 1) reimbursement for legal costs (received December 1999); 2) five initial payments (two in FY 2000 with an additional one per year in FY 2001, 2002, and 2003); 3) on-going annual payments; and 4) strategic contribution payments (from FY 2008 through 2017). The master settlement agreement places no restrictions on how states are to spend the money. Contrary to popular belief, the payments will be received in perpetuity.

The total amount of tobacco settlement funds available to Montana may be affected by a number of adjustments. The three most important are the adjustments for inflation, volume of cigarettes shipped nationally, and loss of market shares for participating manufacturers. The amount of Montana's annual share will increase by a minimum amount of 3 percent or more if inflation is greater than 3 percent. The amount will decrease if the number of cigarettes shipped nationally decreases and will increase if the number increases. If it is verified that participating manufacturers have lost market shares due to disadvantages caused by the settlement, distributions will decrease.



## **2000 Constitutional Amendment**

Due to passage of Montana Constitutional Amendment 35 in November 2000, the legislature is required to dedicate not less than 40 percent of the tobacco settlement money to a permanent trust fund. The remainder of the money is deposited into the general fund. Since the legislature did not pass legislation establishing the exact percentage to be deposited to the trust fund, the revenue estimate assumes 40 percent. Interest earnings from the trust fund are to be distributed: 1) 90 percent for appropriation by the legislature for tobacco related disease prevention programs and state programs providing benefits, services, or coverage that are related to the health care needs of the people of Montana; and 2) 10 percent to the trust. Money in the trust fund can be spent if approved by two-thirds of each house of the legislature. Appropriations of principal, income, or interest from the trust fund cannot be used to replace state or federal money used to fund tobacco disease prevention programs that existed on December 31, 1999.

## **2001 Legislative Action**

The 2001 legislature enacted SB 129 that established a Montana tobacco settlement non-expendable trust fund to implement Article XII, Section 4, of the Montana Constitution. The legislation also provided criteria to govern the purposes for which the interest, income, and principal of the trust may be appropriated. It did not establish a statutory percentage of the tobacco settlement dedicated for deposit in the trust fund.

## **2002 Initiative**

Due to passage of Initiative 146 by the electorate in November 2002, beginning in FY 2004, 32 percent of the total tobacco settlement money funds tobacco prevention programs and 17 percent funds the Children's Health Insurance Program. The remaining 11 percent of the total settlement money is deposited to the general fund.

## **2003 Legislative Action**

The 2003 legislature enacted SB 485 that changed Initiative 146 by increasing the programs that can be funded by tobacco settlement money, but only through FY 2005. With the changes, the 32 percent allocation can be used for human services programs and the 17 percent allocation can be used to match federal Medicaid money. The legislation also transferred \$5,831,360 in FY 2004 and \$6,057,600 in FY 2005 from the account receiving the 32 percent allocation to a newly created prevention and stabilization state special revenue account. Money in this account is used by the Department of Public Health and Human Services to finance, administer, and provide health and human services.

## ***Noxious Weed Management Trust***

During the period FY 1986 through 1992, at least one-half of the collections from a 1 percent surcharge on the retail sale of herbicides were deposited in the noxious weed management trust fund. The remaining collections were spent for weed control grants. The interest earned on the trust is retained in the trust. After the principal of the trust reached \$2.5 million in FY 1992, all herbicide surcharge collections and the interest earned on the trust became available for weed control grants.

### **1995 Legislative Action**

SB 321, passed by the 1995 Legislature, increased the amount of the gasoline tax revenue allocated to the snowmobile account from 23/64 of one percent to 15/28 of one percent. Beginning in FY 1996, one percent of the amount deposited in the snowmobile account is deposited in the Montana noxious weed control trust administered by the Department of Agriculture.

### **1999 Legislative Action**

For the 2001 biennium, SB 164 transferred \$1.1 million per year to the noxious weed trust from the highway non-restricted account in 15-70-125, MCA. As a result, the ending fund balance in the trust will almost double by June 30, 2002.

### **2001 Legislative Action**

The August 2002 special legislative session reduced the transfer to the noxious weed state special revenue account for counties to \$300,000.

### **2004 Constitutional Amendment**

The electorate in the November 2004 election approved an amendment to the Montana Constitution (C-40) creating a noxious weed management trust fund. Ten million dollars of the principal of the fund is to remain forever inviolate unless appropriated by three-fourths of each house of the legislature. Appropriations of the principal over \$10 million and the interest and income can only be used to fund the noxious weed management program, as provided by law.

### **2005 Legislative Action**

The 2005 legislature enacted HB 266 to codified statutory changes needed to implement the constitutional amendment passed in 2004.

## **STATUTORY TRUSTS**

### ***Education Trust***

From FY 1976 through FY 1986, a portion of the revenue from the coal severance tax was allocated to an education trust for the support of education. The legislature appropriated the corpus of this trust to the school equalization account during the period of FY 1987 through FY 1990. Since FY 1990, the education trust has not received revenue from any source and its balance is zero.

### ***Parks Acquisition Trust/Cultural Protection Trust***

During most of the years since 1979, a portion of the coal severance tax has been earmarked for the parks acquisition trust. During the late 1980s, the flow of revenue into this account was diverted to the general fund. However, the principal began to increase again in FY 1990. Prior to FY 1992, two-thirds of the interest from this trust was statutorily allocated for acquisition and operation of state parks, and one-third was allocated for protection of works of art in the state capitol, and other cultural and aesthetics projects.

The 1991 legislature split the principal of this trust into two separate trusts, a parks acquisition trust and an arts protection trust. During the 1993 biennium, the coal tax revenue that would have flowed into the parks acquisition trust (1.267 percent) was spent for maintenance of parks and historic sites, along with the interest from the trust. HB 687, passed during the 1993 legislative session, continued this practice

for the 1995 biennium, allocating \$1.6 million from the trust to current operations. In the 1997 biennium, the coal tax revenue allocation was again deposited in the trust. SB 27, passed by the 1995 legislature, increased the allocation to the parks acquisition trust from 1.267 percent to 1.270 percent.

In FY 1992, 0.633 percent of coal severance tax revenues were deposited in the arts protection trust, with the trust interest continuing to be used for protection of works of art and for cultural and aesthetics projects. During the January 1992 special session, the legislature diverted a portion of the revenue that would have flowed into the arts protection trust in FY 1993 to fund the operations of the Montana Arts Council. Beginning in FY 1994, these revenues were again deposited in the trust. SB 27, passed by the 1995 legislature, decreased the allocation to the arts trust from 0.633 percent to 0.63 percent.

### **1997 Legislative Action**

The 1997 legislature amended the allocation of coal severance taxes under 15-35-108, MCA. HB 5 eliminated the 0.63 percent distribution of coal severance tax to the cultural and aesthetic trust during the 1999 biennium only. The legislature appropriated \$3.9 million from the cultural trust for the immediate purchase of the Virginia City and Nevada City properties. This appropriation resulted in a loss of trust interest revenue that otherwise would be used to fund C&A projects in the state during the 1999 biennium. In order to compensate for the lost interest, the legislature allocated 0.87 percent of coal severance tax revenue to the C&A projects account, and eliminated the 0.63 percent of coal severance tax revenue that had been deposited in the cultural trust. The remaining 0.24 percent of coal taxes allocated to the C&A project account was previously part of the flow into the general fund. After the 1999 biennium, similar amounts of coal severance tax revenue were diverted from the C&A projects account and again flowed to the general fund.

### **1999 Legislative Action**

HB 260, HB 69, and SB 220 reduced coal severance tax revenue and replaced it with coal license tax revenue. The aim of the legislation was to hold the revenue flow into the arts and parks trusts as under current law. However, the arts and parks trusts lost around \$25,000 over the biennium.

The January 20, 2000 decision of the Montana Supreme Court that found HB 260 violated Article IX, Section 5, of the Montana Constitution rendered the above changes meaningless.

### **2001 Legislative Action**

In the August 2002 special legislative session, for FY 2003, the legislature temporarily diverted the parks acquisition trust, 1.27 percent allocation and the cultural trust, 0.63 percent allocation to the general fund. Beginning in FY 2004, the allocations resume.

### **2005 Legislative Action**

HB 9 transfers \$3,412,500 from the general fund to the cultural trust. The transfer of funds replaced dollars spent from the trust in the 1997 purchase of Virginia and Nevada Cities. The legislation directs that the transfer take place at the beginning of FY 2006 so that new interest will be earned throughout the entire 2007 biennium. Revenues from the cultural trust increase \$200,280 in FY 2006 and \$211,097 in FY 2007.



# GLOSSARY / INDEX





## Glossary

A number of terms are used extensively in budgeting and appropriations. The most common terms, which are used throughout the budget analysis and in other fiscal materials, are listed and defined below.

**Appropriations** – An authorization by law for the expenditure of funds or to acquire obligations. Types of appropriations are listed below.

*Biennial* – A biennial appropriation is an appropriation made in the first year of the biennium, where the appropriated amount can be spent in either year of the biennium.

*Budget amendment* – See “Budget Amendment” below.

*Continuing* – An appropriation that continues beyond one biennium.

*Language* – An appropriation made in the language of the general appropriations act for a non-specific or limited dollar amount. Language appropriations are generally used when an agency knows that it will be receiving federal or state special revenue funds but is uncertain as to the amount.

*Line Item* – An appropriation made for a specific purpose and which cannot be used for any other purpose. Line item appropriations highlight certain appropriations and ensure that they can be separately tracked on the state accounting system.

*One-time* – Appropriations for a one-time purpose that are excluded from the base budget in the next biennium.

*Restricted* – An appropriation designated for a specific purpose or function.

*Statutory* – Funds appropriated in permanent law rather than a temporary bill. All statutory appropriations references are listed in 17-7-502, MCA.

*Temporary* - An appropriation authorized by the legislature in the general appropriations act or in a “cat and dog” bill that is valid only for the biennium.

**Appropriation Transfers** (also see “Supplemental Appropriation”) – The transfer of funds appropriated for the second year of the biennium to the first if the Governor or other approving authority determines that due to an unforeseen or unanticipated emergency there are insufficient funds in the first year for the operation of an agency.

**Approving Authority** – The entity designated in law as having the authority to approve certain budgetary changes during the interim. The approving authorities are:

- the Governor or his/her designated representative for executive branch agencies
- the Chief Justice of the Supreme Court or his/her designated representative for the judicial branch agencies
- the Speaker of the House of Representatives for the House;
- the President of the Senate for the Senate

- the appropriate standing legislative committees or designated representative for the legislative branch divisions; and
- the Board of Regents of Higher Education or their designated representative for the university system.

1)

**Average Daily Population (ADP)** – The population measure used to calculate population in the Montana correctional system. ADP is equivalent to one inmate incarcerated for one year.

**Average Number Belonging (ANB)** – The enrollment measure used for K-12 BASE aid calculations. ANB is the equivalent of one full-time student enrolled in school for the full school year.

**Base** – The level of funding authorized by the previous legislature.

**Base Budget** – The resources needed for the operation of state government that provide for expenses of an ongoing and non-extraordinary nature in the current biennium.

**Benefits** – An expenditure category used to account for the provision of payments or services by the government to individuals who qualify for receipt of those payments or services, such as Medicaid benefits. Personal services benefits for state employees are included in the personal services expenditure category.

**Biennial Appropriation** – An appropriation that can be expended in either or both years of the biennium.

**Biennium** – A two-year period. For the state, this period begins July 1 of the odd-numbered years and ends June 30 of the following odd-numbered year.

**Budget Amendments** – Temporary authority to spend unanticipated non-general fund revenue received after the legislature adjourns. The funds must be used to provide additional services and cannot make a commitment of general fund support for the present or future.

**Cat and Dog Appropriations** – One-time appropriations made in bills other than the general appropriations act.

**Debt Service** – The payment on outstanding bonds.

**Decision Package** – Separate, specific adjustments to the base budget. Decision packages can be either present law adjustments or new proposals.

**Earmarked Revenue** – Funds from a specific source that can be spent only for designated activities.

**Enterprise Funds** – A fund used to account for operations financed and operated similar to private business enterprises, where the intent of the legislature is to finance or recover costs, primarily through user charges.

**Federal Special Revenue** – Accounts deposited in the state treasury from federal sources, to be used for the operation of state government.



**Fiduciary Funds** – Funds used to account for assets held by the state in a trustee capacity or as an agent for individuals, private organizations, other governments, or other funds.

**Fiscal Note** - An estimate, prepared by the Office of Budget and Program Planning, of the probable revenues and costs that will be incurred as the result of a bill or joint resolution.

**Fiscal Year (FY) aka State Fiscal Year (SFY)** – A 12-month accounting period beginning July 1 and ending June 30. Fiscal year 2003 refers to the fiscal year ending June 30, 2003. (Note: The federal fiscal year (FFY) is October 1 through September 30.)

**Fixed Costs** – Fees (fixed costs) charged to agencies for a variety of services provided by other state agencies (e.g., payroll service fees, rent, warrant writing services, and data network services.).

**FTE** – Full-Time Equivalent position, or the equivalent of one person working full-time for the entire year. Also used to denote full-time equivalent students in the Montana University System for purposes of calculating state support.

**Fund** – A fiscal entity with revenues and expenses which are segregated for the purpose of carrying out a specific purpose or activity.

**General Fund** – Accounts for all governmental financial resources except those that must be accounted for in another fund.

**General Fund Reversions** – Unspent appropriated funds that are returned to the general fund at the close of the budget period.

**Grants** – An expenditure category used to account for the payment by a government entity to an individual or other entity who will perform a service.

**HB 2** –The General Appropriations Act in which the legislature authorizes the funding for state government for the upcoming biennium. Each session, House Bill 2 is reserved for this purpose.

**Indirect Cost** – A cost necessary for the functioning of the organization as a whole, but which cannot be directly assigned to a specific division or agency.

**Interim** – The time between regular legislative sessions.

**Internal Service Funds** – Funds use to account for the financing of goods and services provided by one department or agency to other departments, agencies, or governmental entities on a cost-reimbursement basis.

**IRIS** - The Integrated Revenue Information System (IRIS) is an automated system to administer taxes that are the responsibility of the Department of Revenue to collect.

**Local Assistance** – An expenditure classification primarily used to account for expenditures made for K-12 funding provided by the state to school districts.

**MBARS** – The Montana Budget Analysis and Reporting System, which provides all state agencies with one computerized system for budget development, maintenance and tracking, and is integrated with the State Accounting, Budget, and Human Resource System (SABHRS).

**Mill** – The property tax rate based on the valuation of property. A tax rate of one mill produces one dollar of taxes on each \$1,000 of assessed property value.

**New Proposals** – Requests (decision packages) to provide new non-mandated services, to change program services, to eliminate existing services, or to change the source of funds.

**Non-budgeted Expenditures** – Accounting entries for depreciation, amortization, and other financial transactions that appear as expenditures, but don't actually result in direct dispersal of funds from the state treasury.

**Operating Expenses** – All operating expenditures that do not meet the personal services and capital outlay classification criteria. These expenditures include, but are not limited to, professional services, supplies, rent, travel, and repair and maintenance.

**Other Funds** – Capital projects and fiduciary funds.

*Capital projects fund* – Accounts for financial resources used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust funds.

*Fiduciary funds* – Trust and agency fund types used to account for assets held by state government in a trustee capacity or as an agency for individuals, private organizations, other governmental entities, or other funds.

**Pay Plan** – Provision by the legislature of a general adjustment to salaries and/or benefits paid to state employees. Also refers to the pay schedule listing the state salary rate for each classified position according to that position's grade and the market rate.

**Personal Services** – Expenditures for salaries, benefits, per diem, and other additions, such as overtime.

**Personal Services Snapshot** – The point in time at which personal services attributes are captured and from which the personal services budget is determined. The executive budget personal services costs are based on a "snapshot" of actual salaries for authorized FTE as they existed in a pre-determined pay period in the base year.

**Present Law** – The additional level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature.

**Present Law Adjustments** – Requests (decision packages) for an adjustment in funding sufficient to allow maintenance of operations and services at the level authorized by the previous legislature (e.g., caseload, enrollment changes, and legally mandated workload).

**Program** – A group of related activities performed by one or more organizational units for the purpose of accomplishing a function for which the government is responsible. Also, a grouping of functions or

objectives that provides the basis for legislative review of agency activities for appropriations and accountability purposes.

**Proprietary Funds** – Enterprise or internal service funds. Statute does not require that most proprietary funds be appropriated.

*Enterprise funds* – Funds that account for operations financed and operated in a manner similar to private business enterprises, and through which the intent is to provide goods or services to the public.

*Internal service funds*- Funds that account for the financing of goods or services provided by one department or agency to other departments or agencies of state government.

**Reporting Levels** – Budget units dividing agency and program budgets into smaller units for the purpose of constructing, analyzing, and approving budgets.

**SABHRS** – The State Accounting, Budget, and Human Resource System that combines the state's accounting, budgeting, personnel, payroll, and asset management systems into one single system.

**State Special Revenue** – Accounts for money from state and other nonfederal sources that is earmarked for a particular purpose, as well as money from other non-state or nonfederal sources that is restricted by law or by the terms of an agreement.

**Supplemental Appropriation** – An additional appropriation made by the governing body after the budget year or biennium has started. There are two types of supplemental appropriations that can be used to increase spending authority for a fiscal year: 1) a transaction in an even-numbered year that moves spending authority from the second year of the biennium to the first year; or 2) an appropriation passed and approved by the legislature to provide authority for the odd-numbered fiscal year ending the current biennium.

**Vacancy Savings** – The difference between what agencies actually spend for personal services and the cost of fully funding all funded positions for the entire year.

## Acronyms

Acronyms are used to denote agencies, programs, and common terms. The following list includes some of the most common.

AES – Agricultural Experiment Station(s)  
ADP – Average Daily Population (institutions)  
ANB – Average Number Belonging (K-12 education)  
ARM – Administrative Rules of Montana  
BASE Aid – Base Amount for School Equity Aid  
BPE - Board of Public Education  
C&A – Cultural and Aesthetic (Trust)  
CC - Community Colleges  
CES - Cooperative Extension Service  
CHE - Commissioner of Higher Education  
CHIP – Children’s Health Insurance Program (also SCHIP)  
CIO – Chief Information Officer  
COPP - Commissioner of Political Practices  
COT - College of Technology, followed by campus designation  
CPI – Consumer Price Index  
DEQ – Department of Environmental Quality  
DMA – Department of Military Affairs  
DNRC – Department of Natural Resources and Conservation  
DOA – Department of Administration  
DOA – Department of Agriculture  
DOC –Department of Commerce (see Corrections)  
DOC – Department of Corrections (see Commerce)  
DOJ – Department of Justice  
DOLI – Department of Labor and Industry  
DOR – Department of Revenue  
DP – Decision Package  
DPHHS – Department of Public Health and Human Services  
FCES - Forestry and Conservation Experiment Station  
FMAP – Federal Medical Assistance Participation rate (Medicaid)  
FSR – Federal Special Revenue  
FSTS - Fire Services Training School  
FTE – Full-Time Equivalent  
FWP – Department of Fish, Wildlife, and Parks  
FFY – Federal Fiscal Year  
FY – Fiscal Year  
FYE - Fiscal Year End  
GAAP – Generally Accepted Accounting Principles  
GF – General Fund  
GSL – Guaranteed Student Loan  
GTB – Guaranteed Tax Base  
HAC – House Appropriations Committee  
HSRA – Highways Special Revenue Account  
I&I – Interest and Income

IRIS – Integrated Revenue Information System  
IT – Information Technology  
ITSD - Information Technology Services Division  
LAD - Legislative Audit Division  
LEPO - Legislative Environmental Policy Office  
LFA – Legislative Fiscal Analyst  
LFC – Legislative Finance Committee  
LFD - Legislative Fiscal Division  
LRBP - Long Range Building Program  
LRP – Long Range Planning  
LSD - Legislative Services Division  
MAC - Montana Arts Council  
MBARS – Montana Budgeting, Analysis, and Reporting System  
MBCC – Montana Board of Crime Control  
MBMG – Montana Bureau of Mines and Geology  
MCA – Montana Code Annotated  
MCHA – Montana Comprehensive Health Association  
MDT – Montana Department of Transportation  
MHP - Montana Highway Patrol  
MHS - Montana Historical Society  
MSDB – Montana School for the Deaf and Blind  
MSF – Montana State Fund  
MSL - Montana State Library  
MSU - Montana State University, followed by campus designation i.e. MSU – Bozeman  
MUS - Montana University System  
NP – New Proposal  
OBPP - Office of Budget and Program Planning  
OCHE – Office of the Commissioner of Higher Education  
OPI - Office of Public Instruction  
PERS - Public Employees Retirement System  
PL – Present Law  
POINTS – Process Oriented Integrated Tax System  
PSC - Public Service Commission  
RIGWA – Resource Indemnity and Groundwater Assessment Tax  
RIT – Resource Indemnity Trust  
SABHRS – Statewide Accounting, Budgeting, and Human Resources System  
SAO - State Auditor's Office  
SF&C –Senate Finance and Claims Committee  
SOS - Secretary of State  
SSR - State Special Revenue  
TANF - Temporary Assistance for Needy Families  
TEA – 21 – Transportation Equity Act for the 21<sup>st</sup> Century  
TRS – Teachers' Retirement System  
TSEP - Treasure State Endowment Program  
UM - University of Montana, followed by campus designation i.e. UM – Missoula

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